

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILLS NOS. 679 & 396

AN ACT

2 To repeal sections 208.152, 208.204, 210.025,
3 210.109, 210.110, 210.145, 210.152, 210.160,
4 210.183, 210.518, 210.565, 210.903, 210.909,
5 210.937, 211.031, 211.032, 211.059, 211.171,
6 211.181, 211.321, 453.110, 475.024, 491.075,
7 and 492.304, RSMo, and to enact in lieu
8 thereof thirty-eight new sections relating to
9 the state foster care system, the Dominic
10 James Memorial Foster Care Reform Act of
11 2003, with penalty provisions.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
13 AS FOLLOWS:

14 Section A. Sections 208.152, 208.204, 210.025, 210.109,
15 210.110, 210.145, 210.152, 210.160, 210.183, 210.518, 210.565,
16 210.903, 210.909, 210.937, 211.031, 211.032, 211.059, 211.171,
17 211.181, 211.321, 453.110, 475.024, 491.075, and 492.304, RSMo,
18 are repealed and thirty-eight new sections enacted in lieu
19 thereof, to be known as sections 168.282, 168.283, 207.085,
20 208.152, 208.204, 210.025, 210.109, 210.110, 210.111, 210.112,
21 210.145, 210.147, 210.152, 210.160, 210.183, 210.187, 210.188,
22 210.482, 210.487, 210.518, 210.565, 210.903, 210.909, 210.937,
23 211.031, 211.032, 211.059, 211.171, 211.181, 211.321, 453.110,

1 475.024, 491.075, 492.304, 630.097, 1, 2, and 3, to read as
2 follows:

3 168.282. Sections 168.283, 207.085, 210.112, 210.147,
4 210.160, 210.482, 210.487, 210.565, 211.031, 211.059, and
5 211.321, RSMo, shall be known and may be cited as the "Dominic
6 James Memorial Foster Care Reform Act of 2003".

7 168.283. 1. No person employed by a school after January
8 1, 2004, and no person employed by a school for less than two
9 years who has any negative history in his or her personnel file
10 with the school, including but not limited to, administrators,
11 teachers, aides, paraprofessionals, assistants, secretaries,
12 custodians, cooks, nurses, and bus drivers, shall have
13 unsupervised contact with pupils until a criminal history
14 background check has been conducted. The results of the
15 background check shall be sent to the employing school district.
16 Any person required to submit to a criminal background check
17 pursuant to this section shall be required to submit to the
18 Federal Bureau of Investigation background check, but may
19 register with the family care safety registry and access line
20 pursuant to sections 210.900 to 210.937 in lieu of the required
21 highway patrol background check.

22 2. To facilitate the criminal history background check on
23 any person employed by the school, such person shall submit two
24 sets of fingerprints collected pursuant to standards determined
25 by the highway patrol. One set of fingerprints shall be used by

1 the highway patrol to search the criminal history repository and
2 the second set shall be forwarded to the Federal Bureau of
3 Investigation for searching the federal criminal history files.

4 3. Any fees for the state criminal history record
5 information pursuant to section 43.530, RSMo, and for the federal
6 criminal history record by the Federal Bureau of Investigation
7 shall be paid by the employee. The department shall distribute
8 the fees collected for the state and federal criminal histories
9 to the highway patrol.

10 4. The employee may be reimbursed by the employing school
11 district if the school district policy provides for reimbursement
12 intended for state and federal criminal history information
13 pursuant to section 43.530, RSMo.

14 5. If, as a result of the criminal history background check
15 required by this section, it is determined that the holder of a
16 certificate issued pursuant to section 168.021 has been charged
17 with, pled guilty or nolo contendere to, or been found guilty of
18 a crime under the laws of this state, any other state, the United
19 States, or any other country, regardless of imposition of
20 sentence, such information shall be reported to the department of
21 elementary and secondary education.

22 6. Any school official making a report to the department of
23 elementary and secondary education in conformity with this
24 section shall not be subject to civil liability for such action.

25 7. The state board of education may promulgate rules for

1 criminal history background checks made pursuant to this section.
2 No rule or portion of a rule promulgated pursuant to the
3 authority of this section shall become effective unless it has
4 been promulgated pursuant to chapter 536, RSMo.

5 8. This section shall become effective January 1, 2004.

6 207.085. 1. For division employees involved with child
7 protective services, it shall be grounds for dismissal for any
8 officer or employee of the division of family services to
9 purposely or knowingly violate a stated or written policy of the
10 division, any rule promulgated by the division, or any state law
11 directly related to the child abuse and neglect activities of the
12 division if the violation results in serious physical injury or
13 death.

14 2. The provisions of this section shall apply to merit
15 system employees of the division, as well as all other employees
16 of the division, and upon a showing of a violation, shall be
17 considered sufficient grounds for the division to make a for
18 cause dismissal pursuant to section 36.380, RSMo.

19 3. The provisions of sections 660.019 to 660.021, RSMo,
20 shall apply to this section. If an employee is responsible for
21 assignments in excess of specified caseload standards established
22 in section 660.020, RSMo, and the employee purposely or knowingly
23 violates a stated or written policy of the division and the
24 violation results in serious physical injury or death, any rule
25 promulgated by the division, or any state law directly related to

1 the child abuse and neglect activities of the division, the
2 employee's good faith efforts to follow the stated or written
3 policies of the division, the rules promulgated by the division,
4 or the state laws directly related to the child abuse and neglect
5 activities of the division shall be a mitigating factor in
6 determining whether an employee is dismissed pursuant to
7 subsection 1 of this section.

8 208.152. 1. Benefit payments for medical assistance shall
9 be made on behalf of those eligible needy persons who are unable
10 to provide for it in whole or in part, with any payments to be
11 made on the basis of the reasonable cost of the care or
12 reasonable charge for the services as defined and determined by
13 the division of medical services, unless otherwise hereinafter
14 provided, for the following:

15 (1) Inpatient hospital services, except to persons in an
16 institution for mental diseases who are under the age of
17 sixty-five years and over the age of twenty-one years; provided
18 that the division of medical services shall provide through rule
19 and regulation an exception process for coverage of inpatient
20 costs in those cases requiring treatment beyond the seventy-fifth
21 percentile professional activities study (PAS) or the Medicaid
22 children's diagnosis length-of-stay schedule; and provided
23 further that the division of medical services shall take into
24 account through its payment system for hospital services the
25 situation of hospitals which serve a disproportionate number of

1 low-income patients;

2 (2) All outpatient hospital services, payments therefor to
3 be in amounts which represent no more than eighty percent of the
4 lesser of reasonable costs or customary charges for such
5 services, determined in accordance with the principles set forth
6 in Title XVIII A and B, Public Law 89-97, 1965 amendments to the
7 federal Social Security Act (42 U.S.C. 301, et seq.), but the
8 division of medical services may evaluate outpatient hospital
9 services rendered under this section and deny payment for
10 services which are determined by the division of medical services
11 not to be medically necessary, in accordance with federal law and
12 regulations;

13 (3) Laboratory and X-ray services;

14 (4) Nursing home services for recipients, except to persons
15 in an institution for mental diseases who are under the age of
16 sixty-five years, when residing in a hospital licensed by the
17 department of health and senior services or a nursing home
18 licensed by the division of aging or appropriate licensing
19 authority of other states or government-owned and -operated
20 institutions which are determined to conform to standards
21 equivalent to licensing requirements in Title XIX, of the federal
22 Social Security Act (42 U.S.C. 301, et seq.), as amended, for
23 nursing facilities. The division of medical services may
24 recognize through its payment methodology for nursing facilities
25 those nursing facilities which serve a high volume of Medicaid

1 patients. The division of medical services when determining the
2 amount of the benefit payments to be made on behalf of persons
3 under the age of twenty-one in a nursing facility may consider
4 nursing facilities furnishing care to persons under the age of
5 twenty-one as a classification separate from other nursing
6 facilities;

7 (5) Nursing home costs for recipients of benefit payments
8 under subdivision (4) of this section for those days, which shall
9 not exceed twelve per any period of six consecutive months,
10 during which the recipient is on a temporary leave of absence
11 from the hospital or nursing home, provided that no such
12 recipient shall be allowed a temporary leave of absence unless it
13 is specifically provided for in his plan of care. As used in
14 this subdivision, the term "temporary leave of absence" shall
15 include all periods of time during which a recipient is away from
16 the hospital or nursing home overnight because he is visiting a
17 friend or relative;

18 (6) Physicians' services, whether furnished in the office,
19 home, hospital, nursing home, or elsewhere;

20 (7) Dental services;

21 (8) Services of podiatrists as defined in section 330.010,
22 RSMo;

23 (9) Drugs and medicines when prescribed by a licensed
24 physician, dentist, or podiatrist;

25 (10) Emergency ambulance services and, effective January 1,

1 1990, medically necessary transportation to scheduled,
2 physician-prescribed nonelective treatments. The department of
3 social services may conduct demonstration projects related to the
4 provision of medically necessary transportation to recipients of
5 medical assistance under this chapter. Such demonstration
6 projects shall be funded only by appropriations made for the
7 purpose of such demonstration projects. If funds are
8 appropriated for such demonstration projects, the department
9 shall submit to the general assembly a report on the significant
10 aspects and results of such demonstration projects;

11 (11) Early and periodic screening and diagnosis of
12 individuals who are under the age of twenty-one to ascertain
13 their physical or mental defects, and health care, treatment, and
14 other measures to correct or ameliorate defects and chronic
15 conditions discovered thereby. Such services shall be provided
16 in accordance with the provisions of section 6403 of P.L.53
17 101-239 and federal regulations promulgated thereunder;

18 (12) Home health care services;

19 (13) Optometric services as defined in section 336.010,
20 RSMo;

21 (14) Family planning as defined by federal rules and
22 regulations; provided, however, that such family planning
23 services shall not include abortions unless such abortions are
24 certified in writing by a physician to the Medicaid agency that,
25 in his professional judgment, the life of the mother would be

1 endangered if the fetus were carried to term;

2 (15) Orthopedic devices or other prosthetics, including eye
3 glasses, dentures, hearing aids, and wheelchairs;

4 (16) Inpatient psychiatric hospital services for
5 individuals under age twenty-one as defined in Title XIX of the
6 federal Social Security Act (42 U.S.C. 1396d, et seq.);

7 (17) Outpatient surgical procedures, including presurgical
8 diagnostic services performed in ambulatory surgical facilities
9 which are licensed by the department of health and senior
10 services of the state of Missouri; except, that such outpatient
11 surgical services shall not include persons who are eligible for
12 coverage under Part B of Title XVIII, Public Law 89-97, 1965
13 amendments to the federal Social Security Act, as amended, if
14 exclusion of such persons is permitted under Title XIX, Public
15 Law 89-97, 1965 amendments to the federal Social Security Act, as
16 amended;

17 (18) Personal care services which are medically oriented
18 tasks having to do with a person's physical requirements, as
19 opposed to housekeeping requirements, which enable a person to be
20 treated by his physician on an outpatient, rather than on an
21 inpatient or residential basis in a hospital, intermediate care
22 facility, or skilled nursing facility. Personal care services
23 shall be rendered by an individual not a member of the
24 recipient's family who is qualified to provide such services
25 where the services are prescribed by a physician in accordance

1 with a plan of treatment and are supervised by a licensed nurse.
2 Persons eligible to receive personal care services shall be those
3 persons who would otherwise require placement in a hospital,
4 intermediate care facility, or skilled nursing facility.
5 Benefits payable for personal care services shall not exceed for
6 any one recipient one hundred percent of the average statewide
7 charge for care and treatment in an intermediate care facility
8 for a comparable period of time;

9 (19) Mental health services. The state plan for providing
10 medical assistance under Title XIX of the Social Security Act, 42
11 U.S.C. 301, as amended, shall include the following mental health
12 services when such services are provided by community mental
13 health facilities operated by the department of mental health or
14 designated by the department of mental health as a community
15 mental health facility or as an alcohol and drug abuse facility,
16 or as an eligible system of care provider.

17 (a) The department of mental health shall establish by
18 administrative rule the definition and criteria for designation
19 as a community mental health facility and for designation as an
20 alcohol and drug abuse facility. Such mental health services
21 shall include:

22 [(a)] a. Outpatient mental health services including
23 preventive, diagnostic, therapeutic, rehabilitative, and
24 palliative interventions rendered to individuals in an individual
25 or group setting by a mental health professional in accordance

1 with a plan of treatment appropriately established, implemented,
2 monitored, and revised under the auspices of a therapeutic team
3 as a part of client services management;

4 [(b)] b. Clinic mental health services including
5 preventive, diagnostic, therapeutic, rehabilitative, and
6 palliative interventions rendered to individuals in an individual
7 or group setting by a mental health professional in accordance
8 with a plan of treatment appropriately established, implemented,
9 monitored, and revised under the auspices of a therapeutic team
10 as a part of client services management;

11 [(c)] c. Rehabilitative mental health and alcohol and drug
12 abuse services including preventive, diagnostic, therapeutic,
13 rehabilitative, and palliative interventions rendered to
14 individuals in an individual or group setting by a mental health
15 or alcohol and drug abuse professional in accordance with a plan
16 of treatment appropriately established, implemented, monitored,
17 and revised under the auspices of a therapeutic team as a part of
18 client services management. As used in this section, "mental
19 health professional" and "alcohol and drug abuse professional"
20 shall be defined by the department of mental health pursuant to
21 duly promulgated rules. With respect to services established by
22 this subdivision, the department of social services, division of
23 medical services, shall enter into an agreement with the
24 department of mental health. Matching funds for outpatient
25 mental health services, clinic mental health services, and

1 rehabilitation services for mental health and alcohol and drug
2 abuse shall be certified by the department of mental health to
3 the division of medical services. The agreement shall establish
4 a mechanism for the joint implementation of the provisions of
5 this subdivision. In addition, the agreement shall establish a
6 mechanism by which rates for services may be jointly developed.

7 (b) The department of mental health, in collaboration with
8 the division of medical services within the department of social
9 services, shall establish by rule the definition and criteria for
10 designation of a community-based service. Services to be made
11 available and easily accessible include intensive home-based
12 services, early intervention services, family support services,
13 respite services, and behavioral assistance services;

14 (20) Comprehensive day rehabilitation services beginning
15 early posttrauma as part of a coordinated system of care for
16 individuals with disabling impairments. Rehabilitation services
17 must be based on an individualized, goal-oriented, comprehensive
18 and coordinated treatment plan developed, implemented, and
19 monitored through an interdisciplinary assessment designed to
20 restore an individual to optimal level of physical, cognitive and
21 behavioral function. The division of medical services shall
22 establish by administrative rule the definition and criteria for
23 designation of a comprehensive day rehabilitation service
24 facility, benefit limitations and payment mechanism;

25 (21) Hospice care. As used in this subsection, the term

1 "hospice care" means a coordinated program of active professional
2 medical attention within a home, outpatient and inpatient care
3 which treats the terminally ill patient and family as a unit,
4 employing a medically directed interdisciplinary team. The
5 program provides relief of severe pain or other physical symptoms
6 and supportive care to meet the special needs arising out of
7 physical, psychological, spiritual, social and economic stresses
8 which are experienced during the final stages of illness, and
9 during dying and bereavement and meets the Medicare requirements
10 for participation as a hospice as are provided in 42 CFR Part
11 418. Beginning July 1, 1990, the rate of reimbursement paid by
12 the division of medical services to the hospice provider for room
13 and board furnished by a nursing home to an eligible hospice
14 patient shall not be less than ninety-five percent of the rate of
15 reimbursement which would have been paid for facility services in
16 that nursing home facility for that patient, in accordance with
17 subsection (c) of section 6408 of P.L. 101-239 (Omnibus Budget
18 Reconciliation Act of 1989);

19 (22) Such additional services as defined by the division of
20 medical services to be furnished under waivers of federal
21 statutory requirements as provided for and authorized by the
22 federal Social Security Act (42 U.S.C. 301, et seq.) subject to
23 appropriation by the general assembly;

24 (23) Beginning July 1, 1990, the services of a certified
25 pediatric or family nursing practitioner to the extent that such

1 services are provided in accordance with chapter 335, RSMo, and
2 regulations promulgated thereunder, regardless of whether the
3 nurse practitioner is supervised by or in association with a
4 physician or other health care provider;

5 (24) Subject to appropriations, the department of social
6 services shall conduct demonstration projects for nonemergency,
7 physician-prescribed transportation for pregnant women who are
8 recipients of medical assistance under this chapter in counties
9 selected by the director of the division of medical services.

10 The funds appropriated pursuant to this subdivision shall be used
11 for the purposes of this subdivision and for no other purpose.

12 The department shall not fund such demonstration projects with
13 revenues received for any other purpose. This subdivision shall
14 not authorize transportation of a pregnant woman in active labor.
15 The division of medical services shall notify recipients of
16 nonemergency transportation services under this subdivision of
17 such other transportation services which may be appropriate
18 during active labor or other medical emergency;

19 (25) Nursing home costs for recipients of benefit payments
20 under subdivision (4) of this subsection to reserve a bed for the
21 recipient in the nursing home during the time that the recipient
22 is absent due to admission to a hospital for services which
23 cannot be performed on an outpatient basis, subject to the
24 provisions of this subdivision:

25 (a) The provisions of this subdivision shall apply only if:

1 a. The occupancy rate of the nursing home is at or above
2 ninety-seven percent of Medicaid certified licensed beds,
3 according to the most recent quarterly census provided to the
4 division of aging which was taken prior to when the recipient is
5 admitted to the hospital; and

6 b. The patient is admitted to a hospital for a medical
7 condition with an anticipated stay of three days or less;

8 (b) The payment to be made under this subdivision shall be
9 provided for a maximum of three days per hospital stay;

10 (c) For each day that nursing home costs are paid on behalf
11 of a recipient pursuant to this subdivision during any period of
12 six consecutive months such recipient shall, during the same
13 period of six consecutive months, be ineligible for payment of
14 nursing home costs of two otherwise available temporary leave of
15 absence days provided under subdivision (5) of this subsection;
16 and

17 (d) The provisions of this subdivision shall not apply
18 unless the nursing home receives notice from the recipient or the
19 recipient's responsible party that the recipient intends to
20 return to the nursing home following the hospital stay. If the
21 nursing home receives such notification and all other provisions
22 of this subsection have been satisfied, the nursing home shall
23 provide notice to the recipient or the recipient's responsible
24 party prior to release of the reserved bed.

25 2. Benefit payments for medical assistance for surgery as

1 defined by rule duly promulgated by the division of medical
2 services, and any costs related directly thereto, shall be made
3 only when a second medical opinion by a licensed physician as to
4 the need for the surgery is obtained prior to the surgery being
5 performed.

6 3. The division of medical services may require any
7 recipient of medical assistance to pay part of the charge or
8 cost, as defined by rule duly promulgated by the division of
9 medical services, for dental services, drugs and medicines,
10 optometric services, eye glasses, dentures, hearing aids, and
11 other services, to the extent and in the manner authorized by
12 Title XIX of the federal Social Security Act (42 U.S.C. 1396, et
13 seq.) and regulations thereunder. When substitution of a generic
14 drug is permitted by the prescriber according to section 338.056,
15 RSMo, and a generic drug is substituted for a name brand drug,
16 the division of medical services may not lower or delete the
17 requirement to make a co-payment pursuant to regulations of Title
18 XIX of the federal Social Security Act. A provider of goods or
19 services described under this section must collect from all
20 recipients the partial payment that may be required by the
21 division of medical services under authority granted herein, if
22 the division exercises that authority, to remain eligible as a
23 provider. Any payments made by recipients under this section
24 shall be in addition to, and not in lieu of, any payments made by
25 the state for goods or services described herein.

1 4. The division of medical services shall have the right to
2 collect medication samples from recipients in order to maintain
3 program integrity.

4 5. Reimbursement for obstetrical and pediatric services
5 under subdivision (6) of subsection 1 of this section shall be
6 timely and sufficient to enlist enough health care providers so
7 that care and services are available under the state plan for
8 medical assistance at least to the extent that such care and
9 services are available to the general population in the
10 geographic area, as required under subparagraph (a)(30)(A) of 42
11 U.S.C. 1396a and federal regulations promulgated thereunder.

12 6. Beginning July 1, 1990, reimbursement for services
13 rendered in federally funded health centers shall be in
14 accordance with the provisions of subsection 6402(c) and section
15 6404 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989)
16 and federal regulations promulgated thereunder.

17 7. Beginning July 1, 1990, the department of social
18 services shall provide notification and referral of children
19 below age five, and pregnant, breast-feeding, or postpartum women
20 who are determined to be eligible for medical assistance under
21 section 208.151 to the special supplemental food programs for
22 women, infants and children administered by the department of
23 health and senior services. Such notification and referral shall
24 conform to the requirements of section 6406 of P.L. 101-239 and
25 regulations promulgated thereunder.

1 8. Providers of long-term care services shall be reimbursed
2 for their costs in accordance with the provisions of section 1902
3 (a)(13)(A) of the Social Security Act, 42 U.S.C. 1396a, as
4 amended, and regulations promulgated thereunder.

5 9. Reimbursement rates to long-term care providers with
6 respect to a total change in ownership, at arm's length, for any
7 facility previously licensed and certified for participation in
8 the Medicaid program shall not increase payments in excess of the
9 increase that would result from the application of section 1902
10 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a
11 (a)(13)(C).

12 10. The department of social services, division of medical
13 services, may enroll qualified residential care facilities, as
14 defined in chapter 198, RSMo, as Medicaid personal care
15 providers.

16 208.204. 1. The division of medical services may
17 administer the funds appropriated to the department of social
18 services or any division of the department for payment of medical
19 care provided to children in the legal custody of the department
20 of social services or any division of the department.

21 2. The department of social services shall review all cases
22 of children in their custody to determine which cases involve
23 children in the system due exclusively to a need for mental
24 health services, and identify the cases where no instance of
25 abuse, neglect, or abandonment exists.

1 3. Children identified under subsection 2 of this section
2 may be returned by the judge to the custody of the child's
3 family. Subject to appropriations, the department of mental
4 health shall have the responsibility of providing the necessary
5 services for such children in the least restrictive appropriate
6 environment, including home- and community-based services,
7 treatment, and support, based on a coordinated individualized
8 treatment plan.

9 4. When children are returned to their family's custody and
10 become the service responsibility of the department of mental
11 health, the appropriate moneys to provide for the care of each
12 child in such situation shall be transferred, subject to
13 appropriation, from the department of social services to the
14 department of mental health.

15 210.025. 1. To qualify for receipt of state or federal
16 funds for providing child-care services in the home either by
17 direct payment or through reimbursement to a child-care
18 beneficiary, an applicant and any person over the age of eighteen
19 who is living in the applicant's home shall be required to submit
20 to a criminal background check pursuant to section 43.540, RSMo,
21 and a check of the central registry for child abuse established
22 in section 210.145. Effective January 1, 2001, the requirements
23 of this subsection or subsection 2 of this section shall be
24 satisfied through registration with the family care safety
25 registry established in sections 210.900 to 210.936. Any costs

1 associated with such checks shall be paid by the applicant.

2 2. Upon receipt of an application for state or federal
3 funds for providing child-care services in the home, the division
4 of family services shall:

5 (1) Determine if a [probable cause] finding of child abuse
6 or neglect by a preponderance of the evidence involving the
7 applicant or any person over the age of eighteen who is living in
8 the applicant's home has been recorded pursuant to section
9 210.221 or 210.145;

10 (2) Determine if the applicant or any person over the age
11 of eighteen who is living in the applicant's home has been
12 refused licensure or has experienced licensure suspension or
13 revocation pursuant to section 210.221 or 210.496; and

14 (3) Request a criminal background check of the applicant
15 and any person over the age of eighteen who is living in the
16 applicant's home pursuant to section 43.540, RSMo.

17 3. Except as otherwise provided in subsection 4 of this
18 section, upon completion of the background checks in subsection 2
19 of this section, an applicant shall be denied state or federal
20 funds for providing child care if such applicant or any person
21 over the age of eighteen who is living in the applicant's home:

22 (1) Has had a [probable cause] finding of child abuse or
23 neglect by a preponderance of the evidence pursuant to section
24 210.145;

25 (2) Has been refused licensure or has experienced licensure

1 suspension or revocation pursuant to section 210.496;

2 (3) Has pled guilty or nolo contendere to or been found
3 guilty of any felony for an offense against the person as defined
4 by chapter 565, RSMo, or any other offense against the person
5 involving the endangerment of a child as prescribed by law; of
6 any misdemeanor or felony for a sexual offense as defined by
7 chapter 566, RSMo; of any misdemeanor or felony for an offense
8 against the family as defined in chapter 568, RSMo, with the
9 exception of the sale of fireworks, as defined in section
10 320.110, RSMo, to a child under the age of eighteen; of any
11 misdemeanor or felony for pornography or related offense as
12 defined by chapter 573, RSMo; or of any similar crime in any
13 federal, state, municipal or other court of similar jurisdiction
14 of which the director has knowledge or any offenses or reports
15 which will disqualify an applicant from receiving state or
16 federal funds.

17 4. An applicant shall be given an opportunity by the
18 division to offer any extenuating or mitigating circumstances
19 regarding the findings, refusals or violations against such
20 applicant or any person over the age of eighteen who is living in
21 the applicant's home listed in subsection 2 of this section.
22 Such extenuating and mitigating circumstances may be considered
23 by the division in its determination of whether to permit such
24 applicant to receive state or federal funds for providing child
25 care in the home.

1 5. An applicant who has been denied state or federal funds
2 for providing child care in the home may appeal such denial
3 decision in accordance with the provisions of section 208.080,
4 RSMo.

5 6. If an applicant is denied state or federal funds for
6 providing child care in the home based on the background check
7 results for any person over the age of eighteen who is living in
8 the applicant's home, the applicant shall not apply for such
9 funds until such person is no longer living in the applicant's
10 home.

11 7. Any rule or portion of a rule, as that term is defined
12 in section 536.010, RSMo, that is created under the authority
13 delegated in this section shall become effective only if it
14 complies with and is subject to all of the provisions of chapter
15 536, RSMo, and, if applicable, section 536.028, RSMo. All
16 rulemaking authority delegated prior to August 28, 1999, is of no
17 force and effect and repealed. Nothing in this section shall be
18 interpreted to repeal or affect the validity of any rule filed or
19 adopted prior to August 28, 1999, if it fully complied with all
20 applicable provisions of law. This section and chapter 536,
21 RSMo, are nonseverable and if any of the powers vested with the
22 general assembly pursuant to chapter 536, RSMo, to review, to
23 delay the effective date or to disapprove and annul a rule are
24 subsequently held unconstitutional, then the grant of rulemaking
25 authority and any rule proposed or adopted after August 28, 1999,

1 shall be invalid and void.

2 210.109. 1. The division of family services shall
3 establish a child protection system for the entire state.

4 2. The child protection system shall [seek to] promote the
5 safety of children and the integrity and preservation of their
6 families by conducting investigations or family assessments and
7 providing services in response to reports of child abuse or
8 neglect. The system shall [endeavor to] coordinate community
9 resources and provide assistance or services to children and
10 families identified to be at risk, and to prevent and remedy
11 child abuse and neglect.

12 3. In addition to any duties specified in section 210.145,
13 in implementing the child protection system, the division shall:

14 (1) Maintain a central registry;

15 (2) Receive reports and establish and maintain an
16 information system operating at all times, capable of receiving
17 and maintaining reports;

18 (3) Attempt to obtain the name and address of any person
19 making a report in all cases, after obtaining relevant
20 information regarding the alleged abuse or neglect, although
21 reports may be made anonymously; except that reports made by
22 mandatory reporters pursuant to section 210.115 shall not be made
23 anonymously;

24 (4) Upon receipt of a report, check with the information
25 system to determine whether previous reports have been made

1 regarding actual or suspected abuse or neglect of the subject
2 child, of any siblings, and the perpetrator, and relevant
3 dispositional information regarding such previous reports;

4 (5) Provide protective or preventive services to the family
5 and child and to others in the home to prevent abuse or neglect,
6 to safeguard their health and welfare, and to help preserve and
7 stabilize the family whenever possible. The juvenile court shall
8 cooperate with the division in providing such services;

9 (6) Collaborate with the community to identify
10 comprehensive local services and assure access to those services
11 for children and families where there is risk of abuse or
12 neglect;

13 (7) Maintain a record which contains the facts ascertained
14 which support the determination as well as the facts that do not
15 support the determination;

16 (8) Whenever available and appropriate, contract for the
17 provision of children's services through private children's
18 services providers and agencies in the community; except that the
19 state shall be the sole provider of child abuse and neglect
20 hotline services, the initial child abuse and neglect
21 investigation, and the initial family assessment. The state
22 shall be responsible for representation to the court for children
23 in the custody of the division, but the division may contract for
24 such services.

1 As used in this subsection, "report" includes any telephone call
2 made pursuant to section 210.145.

3 4. By January 1, 1998, the division of family services
4 shall submit documentation to the speaker of the house of
5 representatives and the president pro tem of the senate on the
6 success or failure of the child protection system established in
7 this section. The general assembly may recommend statewide
8 implementation or cancellation of the child protection system
9 based on the success or failure of the system established in this
10 section.

11 5. The documentation required by subsection 4 of this
12 section shall include an independent evaluation of the child
13 protection system completed according to accepted, objective
14 research principles.

15 210.110. As used in sections 210.109 to 210.165, and
16 sections 210.180 to 210.183, the following terms mean:

17 (1) "Abuse", any physical injury, sexual abuse, or
18 emotional abuse inflicted on a child other than by accidental
19 means by those responsible for the child's care, custody, and
20 control, except that discipline including spanking, administered
21 in a reasonable manner, shall not be construed to be abuse;

22 (2) "Central registry", a registry of persons where the
23 division has found [probable cause to believe] by a preponderance
24 of the evidence or a court has substantiated through court
25 adjudication that the individual has committed child abuse or

1 neglect or the person has pled guilty or has been found guilty of
2 a crime pursuant to section 565.020, 565.021, 565.023, 565.024 or
3 565.050, RSMo, if the victim is a child less than eighteen years
4 of age, section 566.030 or 566.060, RSMo, if the victim is a
5 child less than eighteen years of age, or other crime pursuant to
6 chapter 566, RSMo, if the victim is a child less than eighteen
7 years of age and the perpetrator is twenty-one years of age or
8 older, section 567.050, RSMo, if the victim is a child less than
9 eighteen years of age, section 568.020, 568.030, 568.045,
10 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025 or
11 573.035, RSMo, or an attempt to commit any such crimes;

12 (3) "Child", any person, regardless of physical or mental
13 condition, under eighteen years of age;

14 (4) "Children's services providers and agencies", any
15 public or private entity with the appropriate and relevant
16 training and expertise in delivering services to children and
17 their families, and capable of providing direct services and
18 other family services for children in the custody of the division
19 of family services;

20 (5) "Director", the director of the Missouri division of
21 family services;

22 [(5)] (6) "Division", the Missouri division of family
23 services;

24 [(6)] (7) "Family assessment and services", an approach to
25 be developed by the division of family services which will

1 provide for a prompt assessment of a child who has been reported
2 to the division as a victim of abuse or neglect by a person
3 responsible for that child's care, custody or control and of that
4 child's family, including risk of abuse and neglect and, if
5 necessary, the provision of community-based services to reduce
6 the risk and support the family;

7 [(7)] (8) "Investigation", the collection of physical and
8 verbal evidence to determine if a child has been abused or
9 neglected;

10 [(8)] (9) "Jail or detention center personnel", employees
11 and volunteers working in any premises or institution where
12 incarceration, evaluation, care, treatment or rehabilitation is
13 provided to persons who are being held under custody of the law;

14 [(9)] (10) "Neglect", failure to provide, by those
15 responsible for the care, custody, and control of the child, the
16 proper or necessary support, education as required by law,
17 nutrition or medical, surgical, or any other care necessary for
18 the child's well-being;

19 [(10) "Probable cause", available facts when viewed in the
20 light of surrounding circumstances which would cause a reasonable
21 person to believe a child was abused or neglected;]

22 (11) "Preponderance of the evidence", that degree of
23 evidence that is of greater weight or more convincing than the
24 evidence which is offered in opposition to it or evidence which
25 as a whole shows the fact to be proved to be more probable than

1 not;

2 (12) "Report", the communication of an allegation of child
3 abuse or neglect to the division pursuant to section 210.115;

4 ~~[(12)]~~ (13) "Those responsible for the care, custody, and
5 control of the child", those included but not limited to the
6 parents or guardian of a child, other members of the child's
7 household, or those exercising supervision over a child for any
8 part of a twenty-four-hour day. Those responsible for the care,
9 custody and control shall also include any adult who, based on
10 relationship to the parents of the child, members of the child's
11 household or the family, has access to the child.

12 210.111. By January 1, 2004, the division of family
13 services, or its successor division, shall identify all children
14 in the custody of the division currently receiving foster care
15 services and shall report to the general assembly the type of
16 foster care being provided, including but not limited to care
17 provided in a licensed foster care home, institutional setting,
18 residential setting, independent living setting, or kinship care
19 setting, and the status of all such children. Nothing in this
20 section shall be construed as requiring the division to disclose
21 the identity or precise location of any child in the custody of
22 the division.

23 210.112. 1. It is the policy of this state and its
24 agencies to implement a foster care and child protection and
25 welfare system focused on providing the highest quality of

1 services and outcomes for children and their families. The
2 department of social services shall implement such system subject
3 to the following principles:

4 (1) The safety and welfare of children is paramount;

5 (2) Services shall be provided on a competitive basis where
6 public and private providers of direct services to children and
7 their families will be evaluated in a uniform and consistent
8 basis;

9 (3) Services to children and their families shall be
10 provided in a timely manner to maximize the opportunity for
11 successful outcomes; and

12 (4) Any provider of direct services to children and
13 families shall have the appropriate training, education, and
14 competencies to provide the highest quality of services possible.

15 2. On or before July 1, 2004, and subject to
16 appropriations, the division of family services or its successor
17 division, the courts in the designated areas of the pilot
18 project, and any other state agency deemed necessary by the
19 division and the courts shall, in consultation with the community
20 and providers of services in the pilot project areas, implement a
21 two-year pilot project in Greene County, the city of St. Louis,
22 and a rural county in this state selected by the division which
23 will provide a comprehensive and deliberate system of service
24 delivery for all children and their families when children are in
25 the custody of the division. In implementing the pilot project,

1 direct services for children and their families currently
2 provided by the division of family services in Greene County, the
3 city of St. Louis, and the selected rural county, except for
4 services related to the child abuse and neglect hotline,
5 investigations of alleged child abuse and neglect, and initial
6 family assessments, shall be contracted for by a competitive bid
7 process and provided by public and private not-for-profit
8 children's services providers and agencies which have:

9 (1) A license or appropriate accreditation; or

10 (2) A proven record of providing child welfare services
11 within the state of Missouri; or

12 (3) The ability to provide a range of child welfare
13 services, which may include case management services, family-
14 centered services, foster and adoptive parent recruitment and
15 retention, residential care, mentoring, intensive in-home
16 services, foster care services, adoption services, relative care
17 case management, independent living services, and family
18 reunification services.

19 Such children's services providers and agencies under contract
20 with the division shall be subject to all federal, state, and
21 local laws and regulations relating to the provision of such
22 services.

23 3. By February 1, 2004, each county or city participating
24 in the pilot project shall submit a plan for the implementation

1 of the pilot project to the general assembly, including but not
2 limited to the following:

3 (1) A timetable for meeting the county's or city's goal for
4 privatization cases;

5 (2) A plan for implementing the competitive bid process;
6 and

7 (3) The criteria to be used for payment of children's
8 services contracts.

9 The privatization pilot project planning panels established in
10 subsection 4 of this section may include criteria in the
11 implementation plan which allows caseworkers in the pilot project
12 areas to handle up to thirty cases per caseworker.

13 4. The plan required in subsection 3 of this section shall
14 be developed by a "Privatization Pilot Project Planning Panel" in
15 each county or city participating in the pilot project. Each
16 such panel shall include the following members:

17 (1) To be appointed by the governor:

18 (a) A representative from the local division of family
19 services;

20 (b) A representative from private agencies;

21 (c) A representative from child advocacy groups;

22 (d) A representative from the department of mental health;

23 and

24 (e) A representative from community partnership agencies;

1 and

2 (2) To be appointed by the chief justice of the supreme
3 court:

4 (a) A representative from private agencies;

5 (b) A representative from the judicial circuit in which the
6 county or city is located;

7 (c) An attorney representing the interests of parents;

8 (d) A volunteer advocate or guardian ad litem; and

9 (e) A representative of child advocacy groups.

10 In addition, each privatization pilot project planning panel
11 shall also include two members of the senate, with one member
12 appointed by the president pro tem of the senate and one member
13 appointed by the minority floor leader of the senate, and two
14 members of the house of representatives, with one member
15 appointed by the speaker of the house of representatives and one
16 member appointed by the minority floor leader of the house of
17 representatives. All appointments to the local panels shall be
18 made by September 1, 2003, and each panel shall convene at least
19 once before October 1, 2003.

20 5. The pilot project shall have the following criteria:

21 (1) Child welfare services shall be delivered to a child
22 and the child's family by professionals who have substantial
23 training, education, or competencies otherwise demonstrated in
24 the area of children and family services;

1 (2) Children's services providers and agencies shall be
2 evaluated by the division and the courts based on objective,
3 consistent, and performance-based criteria;

4 (3) Any case management services provided shall be subject
5 to a case management plan established pursuant to subsection 4 of
6 this section which is consistent with all relevant federal
7 guidelines. The case management plan shall focus on attaining
8 permanency in children's living conditions to the greatest extent
9 possible and shall include concurrent planning and independent
10 living where appropriate in accordance with the best interests of
11 each child served and considering relevant factors applicable to
12 each individual case as provided by law, including:

13 (a) The interaction and interrelationship of a child with
14 the child's foster parents, biological parents, siblings, and any
15 other person who may significantly affect the child's best
16 interests;

17 (b) A child's adjustment to his or her foster home, school,
18 and community;

19 (c) The mental and physical health of all individuals
20 involved, including any history of abuse of or by any individuals
21 involved; and

22 (d) The needs of the child for a continuing relationship
23 with the child's biological parents and the ability and
24 willingness of the child's biological parents to actively perform
25 their functions as parents with regard to the needs of the child;

1 (4) The delivery system shall have sufficient flexibility
2 to take into account children and families on a case-by-case
3 basis;

4 (5) The highest quality of services possible shall be
5 achieved through a system of incentives for reaching and
6 exceeding clearly defined goals and outcome measures; and

7 (6) The delivery system shall provide a mechanism for the
8 assessment of strategies to work with children and families
9 immediately upon entry into the system to maximize permanency and
10 successful outcome in the shortest time possible and shall
11 include concurrent planning. Outcome measures for private and
12 public agencies shall be equal for each program.

13 6. For the pilot project areas, a case management plan
14 consistent with all relevant federal guidelines shall be
15 developed for each child at the earliest time after the initial
16 investigation, but in no event longer than fourteen days after
17 the initial investigation. Such case management plan shall be
18 presented to the court and be the foundation of service delivery
19 to the child and family. The case management plan shall, at a
20 minimum, include:

21 (1) An outcome target based on the child and family
22 situation achieving permanency or independent living, where
23 appropriate;

24 (2) Services authorized and necessary to facilitate the
25 outcome target;

1 (3) Timeframes in which services will be delivered; and

2 (4) Necessary evaluations and reporting.

3 In addition to any visits and assessments required under case
4 management, services to be provided by a public or private
5 children's services provider under the specific case management
6 plan may include family-centered services, foster and adoptive
7 parent recruitment and retention, residential care, mentoring,
8 intensive in-home services, foster care services, adoption
9 services, relative care case services, independent living
10 services, and family reunification services. In all cases, an
11 appropriate level of services shall be provided to the child and
12 family after permanency is achieved to assure a continued
13 successful outcome.

14 7. On or before July 15, 2005, and each July fifteenth
15 thereafter that the project is in operation, the division, in
16 collaboration with the courts in the designated pilot project
17 areas, shall submit a report to the general assembly which shall
18 include:

19 (1) Details about the specifics of the pilot project in
20 each of the three designated areas, including the number of
21 children and families served in each of the three designated
22 areas of the pilot project, the cost to the state for contracting
23 such services, the current status of the children and families
24 served, an assessment of the quality of services provided and

1 outcomes achieved, and an overall evaluation of the project; and

2 (2) Any recommendations regarding the continuation or
3 possible statewide implementation of such project; and

4 (3) Any information or recommendations directly related to
5 the provision of direct services for children and their families
6 that any of the contracting children's services providers and
7 agencies request to have included in the report.

8 8. The division of family services may promulgate rules to
9 implement the provisions of this section. No rule or portion of
10 a rule promulgated pursuant to the authority of this section
11 shall become effective unless it has been promulgated pursuant to
12 chapter 536, RSMo.

13 9. The provisions of this section shall expire on June 30,
14 2005.

15 210.145. 1. The division shall [establish and] develop
16 protocols which give priority to:

17 (1) Ensuring the well-being and safety of the child in
18 instances where child abuse or neglect has been alleged;

19 (2) Provide due process for those accused of child abuse or
20 neglect; and

21 (3) Maintain an information system operating at all times,
22 capable of receiving and maintaining reports. This information
23 system may include the establishment of a "child well-being"
24 hotline to receive reports that do not rise to the level of abuse
25 or neglect, but include cases which could be referred to local

1 division contracted providers for follow-up services and other
2 assistance. This information system shall have the ability to
3 receive reports over a [single,] statewide toll-free number.
4 Such information system shall maintain the results of all
5 investigations, family assessments and services, and other
6 relevant information.

7 2. Upon receipt of a report, the division shall immediately
8 communicate such report to its appropriate local office and any
9 relevant information as may be contained in the information
10 system and determine if the report merits an investigation, or,
11 which, if true, would constitute a suspected violation of any of
12 the following: section 565.020, 565.021, 565.023, 565.024 or
13 565.050, RSMo, if the victim is a child less than eighteen years
14 of age, section 566.030 or 566.060, RSMo, if the victim is a
15 child less than eighteen years of age, or other crime under
16 chapter 566, RSMo, if the victim is a child less than eighteen
17 years of age and the perpetrator is twenty-one years of age or
18 older, section 567.050, RSMo, if the victim is a child less than
19 eighteen years of age, section 568.020, 568.030, 568.045,
20 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025,
21 573.035, 573.037 or 573.040, RSMo, or an attempt to commit any
22 such crimes. The local division staff shall determine, through
23 the use of protocols developed by the division, whether an
24 investigation or the family assessment and services approach
25 should be used to respond to the allegation. The protocols

1 developed by the division shall give priority to ensuring the
2 well-being and safety of the child.

3 3. The division shall utilize structured decision-making
4 protocol for classification purposes of all reports. The
5 protocols developed by the division shall give priority to
6 ensuring the well-being and safety of the child. All reports
7 shall be initiated within twenty-four hours and shall be
8 classified based upon the reported risk and injury to the child,
9 considering, but not limited to, the following factors:

10 (1) Is there serious physical abuse alleged where siblings
11 remain in the home;

12 (2) Is there a child fatality due to alleged abuse or
13 neglect and siblings remain in the home;

14 (3) Is there alleged physical abuse occurring right now;

15 (4) Are injuries or symptoms of injuries evident that
16 require immediate medical care, or is the child in need of
17 immediate psychiatric care due to alleged abuse;

18 (5) Were severe to inhumane measures used;

19 (6) Will the alleged perpetrator have access to the child
20 in the next twenty-fours hours or is the child afraid to go home;

21 (7) Did the alleged abuse occur within the last thirty
22 days;

23 (8) Is the child currently in a protected environment;

24 (9) Is the current situation immediately dangerous;

25 (10) Are there prior nonharrassment child abuse or neglect

1 reports;

2 (11) Is the allegation educational neglect only;

3 (12) Does the alleged perpetrator have access to the child
4 within the next twenty-four hours, or is the child exhibiting
5 serve emotional trauma or physical injury due to the alleged
6 sexual abuse;

7 (13) Does the child appear seriously ill or injured or in
8 need of immediate care; or

9 (14) Does the child have a chronic illness or minor
10 injuries that require attention.

11 4. Such reports shall be prioritized for the local office
12 utilizing the following response levels:

13 (1) Level 1 priority shall require division staff to have
14 face-to-face contact with the alleged victim or victims within
15 three hours;

16 (2) Level 2 priority shall require division staff to have
17 face-to-face contact with the alleged victim or victims within
18 twenty-four hours;

19 (3) Level 3 priority shall require division staff to have
20 face-to-face contact with the alleged victim or victims within
21 seventy-two hours.

22 In all cases the division must have face-to-face contact with all
23 other children in the alleged victim's household within seventy-
24 two hours.

1 [3.] 5. The local office shall contact the appropriate law
2 enforcement agency immediately upon receipt of a report which
3 division personnel determine merits an investigation, or, which,
4 if true, would constitute a suspected violation of any of the
5 following: section 565.020, 565.021, 565.023, 565.024 or
6 565.050, RSMo, if the victim is a child less than eighteen years
7 of age, section 566.030 or 566.060, RSMo, if the victim is a
8 child less than eighteen years of age, or other crime under
9 chapter 566, RSMo, if the victim is a child less than eighteen
10 years of age and the perpetrator is twenty-one years of age or
11 older, section 567.050, RSMo, if the victim is a child less than
12 eighteen years of age, section 568.020, 568.030, 568.045,
13 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025,
14 573.035, 573.037 or [573.045] 573.040, RSMo, or an attempt to
15 commit any such crimes. The local office shall provide such
16 agency with a detailed description of the report received. In
17 such cases the local division office shall request the assistance
18 of the local law enforcement agency in all aspects of the
19 investigation of the complaint. The appropriate law enforcement
20 agency shall either assist the division in the investigation or
21 provide the division, within twenty-four hours, an explanation in
22 writing detailing the reasons why it is unable to assist.

23 [4.] 6. The local office of the division shall cause an
24 investigation or family assessment and services approach to be
25 initiated immediately or no later than within twenty-four hours

1 of receipt of the report from the division, except in cases where
2 the sole basis for the report is educational neglect. If the
3 report indicates that educational neglect is the only complaint
4 and there is no suspicion of other neglect or abuse, the
5 investigation shall be initiated within seventy-two hours of
6 receipt of the report. If the report indicates the child is in
7 danger of serious physical harm or threat to life, an
8 investigation shall include direct observation of the subject
9 child within twenty-four hours of the receipt of the report.
10 Local law enforcement shall take all necessary steps to
11 facilitate such direct observation. If the parents of the child
12 are not the alleged abusers, [the parents] a parent of the child
13 must be notified prior to the child being interviewed by the
14 division. The division shall not meet with the child [in any
15 location where abuse of such child is alleged to have occurred]
16 at the child's school or child care facility. When the child is
17 reported absent from the residence, the location and the
18 well-being of the child shall be verified.

19 [5.] 7. The director of the division shall name at least
20 one chief investigator for each local division office, who shall
21 direct the division response on any case involving a second or
22 subsequent incident regarding the same subject child or
23 perpetrator. The duties of a chief investigator shall include
24 verification of direct observation of the subject child by the
25 division and shall ensure information regarding the status of an

1 investigation is provided to the public school district liaison.
2 The public school district liaison shall develop protocol in
3 conjunction with the chief investigator to ensure information
4 regarding an investigation is shared with appropriate school
5 personnel. The superintendent of each school district shall
6 designate a specific person or persons to act as the public
7 school district liaison. Should the subject child attend a
8 nonpublic school the chief investigator shall notify the school
9 principal of the investigation. Upon notification of an
10 investigation, all information received by the public school
11 district liaison or the school shall be subject to the provisions
12 of the federal Family Educational Rights and Privacy Act (FERPA),
13 20 U.S.C., Section 1232g, and federal rule 34 C.F.R., Part 99.

14 [6.] 8. The investigation shall include but not be limited
15 to the nature, extent, and cause of the abuse or neglect; the
16 identity and age of the person responsible for the abuse or
17 neglect; the names and conditions of other children in the home,
18 if any; the home environment and the relationship of the subject
19 child to the parents or other persons responsible for the child's
20 care; any indication of incidents of physical violence against
21 any other household or family member; and other pertinent data.

22 [7.] 9. When a report has been made by a person required to
23 report under section 210.115, the division shall contact the
24 person who made such report within forty-eight hours of the
25 receipt of the report in order to ensure that full information

1 has been received and to obtain any additional information or
2 medical records, or both, that may be pertinent.

3 [8.] 10. Upon completion of the investigation, if the
4 division suspects that the report was made maliciously or for the
5 purpose of harassment, the division shall refer the report and
6 any evidence of malice or harassment to the local prosecuting or
7 circuit attorney.

8 11. Emergency child protection teams shall be used as
9 appropriate when conducting an investigation. Emergency child
10 protection teams shall consist of designated division local
11 office personnel, the juvenile officer and, if necessary to
12 facilitate direct observation of the allegedly abused child,
13 local law enforcement.

14 [9.] 12. Multidisciplinary teams shall be used whenever
15 conducting the investigation as determined by the division in
16 conjunction with local law enforcement. Multidisciplinary teams
17 shall be used in providing protective or preventive social
18 services, including the services of law enforcement, a liaison of
19 the local public school, the juvenile officer, the juvenile
20 court, and other agencies, both public and private.

21 13. For all family assessment team meetings and other team
22 meetings involving an alleged victim of child abuse or neglect,
23 the biological parents, legal counsel for the biological parents,
24 foster parents, the guardian ad litem for the child, and the
25 court-appointed special advocate for the child shall be provided

1 notice and be permitted to attend all such meetings. In
2 addition, the biological parents, the legal counsel for the
3 biological parents, and the foster parents may request that other
4 individuals be permitted to attend such meetings. Once a person
5 is provided notice of or attends such meetings, the division
6 shall provide such persons with notice of all such subsequent
7 meetings involving the child.

8 [10.] 14. If the appropriate local division personnel
9 determine after an investigation has begun that completing an
10 investigation is not appropriate, the division shall conduct a
11 family assessment and services approach. The division shall
12 provide written notification to local law enforcement prior to
13 terminating any investigative process. The reason for the
14 termination of the investigative process shall be documented in
15 the record of the division and the written notification submitted
16 to local law enforcement. Such notification shall not preclude
17 nor prevent any investigation by law enforcement.

18 [11.] 15. If the appropriate local division personnel
19 determines to use a family assessment and services approach, the
20 division shall:

21 (1) Assess any service needs of the family. The assessment
22 of risk and service needs shall be based on information gathered
23 from the family and other sources;

24 (2) Provide services which are voluntary and time-limited
25 unless it is determined by the division based on the assessment

1 of risk that there will be a high risk of abuse or neglect if the
2 family refuses to accept the services. The division shall
3 identify services for families where it is determined that the
4 child is at high risk of future abuse or neglect. The division
5 shall thoroughly document in the record its attempt to provide
6 voluntary services and the reasons these services are important
7 to reduce the risk of future abuse or neglect to the child. If
8 the family continues to refuse voluntary services or the child
9 needs to be protected, the division may commence an
10 investigation;

11 (3) Commence an immediate investigation if at any time
12 during the family assessment and services approach the division
13 determines that an investigation, as delineated in sections
14 210.109 to 210.183, is required. The division staff who have
15 conducted the assessment may remain involved in the provision of
16 services to the child and family;

17 (4) Document at the time the case is closed, the outcome of
18 the family assessment and services approach, any service provided
19 and the removal of risk to the child, if it existed.

20 [12.] 16. Within thirty days of an oral report of abuse or
21 neglect, the local office shall update the information in the
22 information system. The information system shall contain, at a
23 minimum, the determination made by the division as a result of
24 the investigation, identifying information on the subjects of the
25 report, those responsible for the care of the subject child and

1 other relevant dispositional information. The division shall
2 complete all investigations within thirty days, unless good cause
3 for the failure to complete the investigation is documented in
4 the information system. If the investigation is not completed
5 within thirty days, the information system shall be updated at
6 regular intervals and upon the completion of the investigation.
7 The information in the information system shall be updated to
8 reflect any subsequent findings, including any changes to the
9 findings based on an administrative or judicial hearing on the
10 matter.

11 [13.] 17. A person required to report under section 210.115
12 to the division shall be informed by the division of his right to
13 obtain information concerning the disposition of his or her
14 report. Such person shall receive, from the local office, if
15 requested, information on the general disposition of his or her
16 report. A person required to report to the division pursuant to
17 section 210.115 may receive, if requested, findings and
18 information concerning the case. Such release of information
19 shall be at the discretion of the director based upon a review of
20 the mandated reporter's ability to assist in protecting the child
21 or the potential harm to the child or other children within the
22 family. The local office shall respond to the request within
23 forty-five days. The findings shall be made available to the
24 mandated reporter within five days of the outcome of the
25 investigation.

1 [14.] 18. In any judicial proceeding involving the custody
2 of a child the fact that a report may have been made pursuant to
3 sections 210.109 to 210.183 shall not be admissible. However,
4 nothing in this subsection shall prohibit the introduction of
5 evidence from independent sources to support the allegations that
6 may have caused a report to have been made.

7 [15.] 19. In any judicial proceeding involving the custody
8 of a child where the court determines that the child is in need
9 of services pursuant to subdivision (d) of subsection 1 of
10 section 211.031, RSMo, and has taken jurisdiction, the child's
11 parent, guardian or custodian shall not be entered into the
12 registry.

13 [16.] 20. The division of family services is hereby granted
14 the authority to promulgate rules and regulations pursuant to the
15 provisions of section 207.021, RSMo, and chapter 536, RSMo, to
16 carry out the provisions of sections 210.109 to 210.183.

17 [17.] 21. Any rule or portion of a rule, as that term is
18 defined in section 536.010, RSMo, that is created under the
19 authority delegated in this section shall become effective only
20 if it complies with and is subject to all of the provisions of
21 chapter 536, RSMo, and, if applicable, section 536.028, RSMo.
22 This section and chapter 536, RSMo, are nonseverable and if any
23 of the powers vested with the general assembly pursuant to
24 chapter 536, RSMo, to review, to delay the effective date or to
25 disapprove and annul a rule are subsequently held

1 unconstitutional, then the grant of rulemaking authority and any
2 rule proposed or adopted after August 28, 2000, shall be invalid
3 and void.

4 210.147. Except as otherwise provided by law, all
5 information provided at any meeting or hearing held in relation
6 to the removal of a child from the child's home is confidential;
7 except that:

8 (1) Any parent or party may waive confidentiality for
9 himself or herself; and

10 (2) No person shall be required to sign a confidentiality
11 agreement before testifying or providing information at such
12 meetings or hearing. However, any person who does not agree to
13 maintain confidentiality of the information provided at such
14 meetings or hearings may be excluded from all or any portion of
15 such meetings or hearings during which the person is not
16 testifying or providing information.

17 210.152. 1. All identifying information, including
18 telephone reports reported pursuant to section 210.145, relating
19 to reports of abuse or neglect received by the division shall be
20 retained by the division and removed from the records of the
21 division as follows:

22 (1) For investigation reports contained in the central
23 registry, identifying information shall be retained by the
24 division;

25 (2) For investigation reports initiated by a person

1 required to report pursuant to section 210.115, where
2 insufficient evidence of abuse or neglect is found by the
3 division, identifying information shall be retained for [ten]
4 five years from the date of the report; except that, for class
5 III information under subsection 2 of section 210.145, no
6 identifying information shall be retained by the division. For
7 all other investigation reports where insufficient evidence of
8 abuse or neglect is found by the division, identifying
9 information shall be retained for two years from the date of the
10 report; except that, for class III information under subsection 2
11 of section 210.145, no identifying information shall be retained
12 by the division. Such report shall include any exculpatory
13 evidence known by the division, including exculpatory evidence
14 obtained after the closing of the case. At the end of such
15 two-year period, the identifying information shall be removed
16 from the records of the division and destroyed;

17 (3) For reports where the division uses the family
18 assessment and services approach, identifying information shall
19 be retained by the division;

20 (4) For reports in which the division is unable to locate
21 the child alleged to have been abused or neglected, identifying
22 information shall be retained for ten years from the date of the
23 report and then shall be removed from the records of the
24 division.

25 2. Within ninety days after receipt of a report of abuse or

1 neglect that is investigated, the alleged perpetrator named in
2 the report and the parents of the child named in the report, if
3 the alleged perpetrator is not a parent, shall be notified in
4 writing of any determination made by the division based on the
5 investigation. The notice shall advise either:

6 (1) That the division has determined by a preponderance of
7 the evidence that [there is probable cause to suspect] abuse or
8 neglect exists and that the division shall retain all identifying
9 information regarding the abuse or neglect; that such information
10 shall remain confidential and will not be released except to law
11 enforcement agencies, prosecuting or circuit attorneys, or as
12 provided in section 210.150; that the alleged perpetrator has
13 sixty days from the date of receipt of the notice to seek
14 reversal of the division's determination through a review by the
15 child abuse and neglect review board as provided in subsection 3
16 of this section; or

17 (2) [There is insufficient probable cause of abuse or
18 neglect.] That the division has not determined by a preponderance
19 of the evidence that abuse or neglect exists.

20 3. Any person named in an investigation as a perpetrator
21 who is aggrieved by a determination of abuse or neglect by the
22 division as provided in this section may seek an administrative
23 review by the child abuse and neglect review board pursuant to
24 the provisions of section 210.153. Such request for review shall
25 be made within sixty days of notification of the division's

1 decision under this section. In those cases where criminal
2 charges arising out of facts of the investigation are pending,
3 the request for review shall be made within sixty days from the
4 court's final disposition or dismissal of the charges.

5 4. In any such action for administrative review, the child
6 abuse and neglect review board shall sustain the division's
7 determination if [such determination is supported by evidence of
8 probable cause and is not against the weight of such evidence]
9 the division establishes by a preponderance of the evidence that
10 the alleged perpetrator abused or neglected a child. The abuse
11 and neglect review board shall provide the alleged perpetrator
12 with an opportunity to appear and present testimony. The
13 Missouri rules of civil procedure and the provisions of chapters
14 490, 491, and 492, RSMo, shall apply in such proceedings. The
15 child abuse and neglect review board hearing shall be closed to
16 all persons except the parties, their attorneys and those persons
17 providing testimony on behalf of the parties.

18 5. If the alleged perpetrator is aggrieved by the decision
19 of the child abuse and neglect review board, the alleged
20 perpetrator may [seek de novo judicial review in the circuit
21 court in the county in which the alleged perpetrator resides and
22 in circuits with split venue, in the venue in which the alleged
23 perpetrator resides, or in Cole County] demand in writing that
24 the division initiate de novo review proceedings. Such demand
25 shall be made within sixty days of the notification of the

1 decision of the child abuse and neglect review board. The
2 division shall initiate de novo review proceedings in the circuit
3 court of Cole County within fourteen days. The alleged
4 perpetrator may request a change of venue to the circuit court
5 for the county in which the alleged perpetrator resides. If the
6 alleged perpetrator is not a resident of the state, proper venue
7 shall be in Cole County. The case may be assigned to the family
8 court division where such a division has been established. [The
9 request for a judicial review shall be made within sixty days of
10 the notification of the decision of the child abuse and neglect
11 review board decision. In reviewing such decisions,] In the de
12 novo review proceeding, the division shall be the petitioner and
13 shall establish by a preponderance of the evidence that the
14 alleged perpetrator abused or neglected a child. The circuit
15 court shall provide the alleged perpetrator the opportunity to
16 appear and present testimony. The Missouri rules of civil
17 procedure and the provisions of chapters 490, 491, and 492, RSMo,
18 shall apply to such proceedings. The [alleged perpetrator]
19 parties may subpoena any witnesses except the alleged victim or
20 the reporter. However, the circuit court shall have the
21 discretion to allow the parties to submit the case upon a
22 stipulated record.

23 6. In any such action for administrative review the child
24 abuse and neglect review board shall notify the child or the
25 parent, guardian or legal representative of the child that a

1 review has been requested.

2 210.160. 1. In every case involving an abused or neglected
3 child which results in a judicial proceeding, the judge shall
4 appoint a guardian ad litem to appear for and represent:

5 (1) A child who is the subject of proceedings pursuant to
6 sections 210.110 to 210.165, sections 210.700 to 210.760,
7 sections 211.442 to 211.487, RSMo, or sections 453.005 to
8 453.170, RSMo, or proceedings to determine custody or visitation
9 rights under sections 452.375 to 452.410, RSMo; or

10 (2) A parent who is a minor, or who is a mentally ill
11 person or otherwise incompetent, and whose child is the subject
12 of proceedings under sections 210.110 to 210.165, sections
13 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or
14 sections 453.005 to 453.170, RSMo.

15 2. The guardian ad litem shall be provided with all reports
16 relevant to the case made to or by any agency or person [and],
17 shall have access to all records of such agencies or persons
18 relating to the child or such child's family members or
19 placements of the child, and upon appointment by the court, shall
20 be informed of and have the right to attend any and all meetings
21 involving the child. Employees of the division, officers of the
22 court, and employees of any agency involved shall fully inform
23 the guardian ad litem of all aspects of the case of which they
24 have knowledge or belief.

25 3. The appointing judge shall require the guardian ad litem

1 to faithfully discharge such guardian ad litem's duties, and upon
2 failure to do so shall discharge such guardian ad litem and
3 appoint another. The appointing judge shall have the authority
4 to examine the general and criminal background of persons
5 appointed as guardians ad litem to ensure the safety and welfare
6 of the children such persons are appointed to represent. The
7 judge in making appointments pursuant to this section shall give
8 preference to persons who served as guardian ad litem for the
9 child in the earlier proceeding, unless there is a reason on the
10 record for not giving such preference.

11 4. The guardian ad litem may be awarded a reasonable fee
12 for such services to be set by the court. The court, in its
13 discretion, may award such fees as a judgment to be paid by any
14 party to the proceedings or from public funds. However, no fees
15 as a judgment shall be taxed against a party or parties who have
16 not been found to have abused or neglected a child or children.
17 Such an award of guardian fees shall constitute a final judgment
18 in favor of the guardian ad litem. Such final judgment shall be
19 enforceable against the parties in accordance with chapter 513,
20 RSMo.

21 5. The court may designate volunteer advocates, who may or
22 may not be attorneys licensed to practice law, to assist in the
23 performance of the guardian ad litem duties for the court. The
24 court shall have the authority to examine the general and
25 criminal background of persons designated as volunteer advocates

1 to ensure the safety and welfare of the children such persons are
2 designated to represent. The volunteer advocate shall be
3 provided with all reports relevant to the case made to or by any
4 agency or person [and], shall have access to all records of such
5 agencies or persons relating to the child or such child's family
6 members or placements of the child, and upon designation by the
7 court shall be informed of and have the right to attend any and
8 all meetings involving the child. Any such designated person
9 shall receive no compensation from public funds. This shall not
10 preclude reimbursement for reasonable expenses.

11 6. Any person appointed to perform guardian ad litem duties
12 shall have completed a training program in permanency planning
13 and shall, whenever possible, advocate for timely court hearings
14 to attain permanency for a child as expeditiously as possible to
15 reduce the effects that prolonged foster care may have on a
16 child. A nonattorney volunteer advocate shall have access to a
17 court appointed attorney guardian ad litem should the
18 circumstances of the particular case so require.

19 210.183. 1. At the time of the initial investigation of a
20 report of child abuse or neglect, the division employee
21 conducting the investigation shall provide the alleged
22 perpetrator with a written description of the investigation
23 process. Such written notice shall be given substantially in the
24 following form:

25 "The investigation is being undertaken by the Division of

1 Family Services pursuant to the requirements of chapter 210 of
2 the Revised Missouri Statutes in response to a report of child
3 abuse or neglect.

4 "The identity of the person who reported the incident of
5 abuse or neglect is confidential and may not even be known to the
6 Division since the report could have been made anonymously.

7 "This investigation is required by law to be conducted in
8 order to enable the Division of Family Services to identify
9 incidents of abuse or neglect in order to provide protective or
10 preventive social services to families who are in need of such
11 services.

12 "The division shall make every reasonable attempt to
13 complete the investigation within thirty days. Within ninety
14 days you will receive a letter from the Division which will
15 inform you of one of the following:

16 "(1) That the Division has found insufficient evidence of
17 abuse or neglect; or

18 "(2) That there appears to be probable cause to suspect the
19 existence of child abuse or neglect in the judgment of the
20 Division and that the Division will contact the family to offer
21 social services.

22 "If the Division finds [there is probable cause to believe]
23 by a preponderance of the evidence that child abuse or neglect
24 has occurred or the case is substantiated by court adjudication,
25 a record of the report and information gathered during the

1 investigation will remain on file with the Division.

2 "If you disagree with the determination of the Division and
3 feel that there is insufficient [probable cause to believe]
4 evidence to prove by a preponderance of the evidence that abuse
5 or neglect has occurred, you have a right to request an
6 administrative review at which time you may hire an attorney to
7 represent you. If you request an administrative review on the
8 issue, you will be notified of the date and time of your
9 administrative review hearing by the child abuse and neglect
10 review board. If the division's decision is reversed by the
11 child abuse and neglect review board, the Division records
12 concerning the report and investigation will be updated to
13 reflect such finding. If the child abuse and neglect review
14 board upholds the division's decision, an appeal may be filed in
15 circuit court within sixty days of the child abuse and neglect
16 review board's decision."

17 2. If the division uses the family assessment approach, the
18 division shall at the time of the initial contact provide the
19 parent of the child with the following information:

20 (1) The purpose of the contact with the family;

21 (2) The name of the person responding and his office
22 telephone number;

23 (3) The assessment process to be followed during the
24 division's intervention with the family including the possible
25 services available and expectations of the family.

1 210.187. 1. The task force on children's justice
2 established by the division of family services to recommend
3 improvements in the area of child abuse and neglect services and
4 provide funding for such recommendations shall provide an
5 independent review of policies and procedures of state and local
6 child protective services agencies, and where appropriate,
7 specific cases, and shall evaluate the extent to which the
8 agencies are effectively discharging their child protection
9 responsibilities.

10 2. Consistent with the task force's function of reviewing
11 applications for federal grant moneys available to the state
12 under the Children's Justice Act which are designed to assist
13 eligible states in implementing programs for the handling,
14 investigation, and prosecution of child abuse cases, the task
15 force shall consider the awarding of grant moneys which address
16 the issues that arise from the independent review conducted by
17 the task force pursuant to subsection 1 of this section. As
18 authorized by the Children's Justice Act, grant moneys shall be
19 awarded for the following categories:

20 (1) Improvements to the investigative, administrative, and
21 judicial handling of cases of child abuse and neglect;

22 (2) Experimental, model, and demonstration programs for
23 testing innovative approaches and techniques to improve the
24 prompt and successful resolution of court proceedings or enhance
25 the effectiveness and judicial administration action in child

1 abuse and neglect cases; and

2 (3) Reform of state laws, rules, protocols, and procedures
3 to provide comprehensive protection for children from abuse and
4 neglect.

5 3. The members of the task force shall not disclose to any
6 person or government official any identifying information
7 concerning a specific child protection case with respect to which
8 the task force is providing information and shall not make public
9 other information unless authorized by state law.

10 4. The task force shall be provided:

11 (1) Access to information on cases that the task force
12 desires or is requested to review if such information is
13 necessary for the task force to carry out its functions pursuant
14 to this section; and

15 (2) Upon request, assistance from the department of social
16 services for the performance of the task force's duties.

17 210.188. Beginning February 1, 2005, and each February
18 first thereafter, the department of social services shall submit
19 a report to the governor and the general assembly that includes
20 the following information for the previous calendar year:

21 (1) The number of children who were reported to the state
22 of Missouri during the year as abused or neglected;

23 (2) Of the number of children described in subdivision (1)
24 of this section, the number with respect to whom such reports
25 were:

1 (a) Substantiated;
2 (b) Unsubstantiated; or
3 (c) Summarily closed pursuant to section 210.145;
4 (3) Of the number of children described in subdivision (2)
5 of this section:
6 (a) The number that did not receive services during the
7 year under a state program;
8 (b) The number that did receive services during the year
9 under a state program; and
10 (c) The number that were removed from their families during
11 the year by disposition of the case;
12 (4) The number of families that received preventive
13 services from the state during the year;
14 (5) The number of deaths in the state during the year
15 resulting from child abuse or neglect;
16 (6) Of the number of children described in subdivision (5)
17 of this section, the number of children who were in foster care;
18 (7) The number of child protective services workers
19 responsible for the intake and screening of reports filed during
20 the year;
21 (8) The agency response time with respect to each such
22 report with respect to initial investigation of reports of child
23 abuse or neglect;
24 (9) The response time with respect to the provision of
25 services to families and children where an allegation of abuse or

1 neglect has been made;

2 (10) The number of child protective services workers
3 responsible for intake, assessment, and investigation of child
4 abuse and neglect reports relative to the number of reports
5 investigated during the year;

6 (11) The number of children reunited with their families or
7 receiving family preservation services that, within five years,
8 result in subsequent substantiated reports of child abuse and
9 neglect, including the death of the child; and

10 (12) The number of children for whom individuals were
11 appointed by the court to represent the best interests of such
12 children and the average number of direct out-of-court contacts
13 made in person, telephonically, or otherwise between such
14 individuals and the children they represent.

15 210.482. 1. If the emergency placement of a child in a
16 private home is necessary due to the unexpected absence of the
17 child's parents, legal guardian, or custodian, the juvenile court
18 or division of family services may request that a local or state
19 law enforcement agency or juvenile officer immediately conduct a
20 name-based criminal history record check to include full orders
21 of protection and outstanding warrants of each person eighteen
22 years of age or older residing in the home by using the Missouri
23 uniform law enforcement system (MULES) and the National Crime
24 Information Center to access the Interstate Identification Index
25 maintained by the Federal Bureau of Investigation.

1 2. If a name-based search has been conducted pursuant to
2 subsection 1 of this section, within five business days after the
3 emergency placement of the child in the private home, and if the
4 private home has not previously been approved as a foster or
5 adoptive home, all persons eighteen years of age or older
6 residing in the home shall report to a local law enforcement
7 agency for the purpose of providing two sets of fingerprints each
8 and accompanying fees, pursuant to section 43.530, RSMo. One set
9 of fingerprints shall be used by the highway patrol to search the
10 criminal history repository and the second set shall be forwarded
11 to the Federal Bureau of Investigation for searching the federal
12 criminal history files. Results of the checks will be provided
13 to the juvenile court or division of family services' office
14 requesting such information. Any child placed in emergency
15 placement in a private home shall be removed immediately if any
16 person residing in the home fails to provide fingerprints after
17 being requested to do so, unless the person refusing to provide
18 fingerprints ceases to reside in the private home.

19 3. If the placement of a child is denied as a result of a
20 name-based criminal history check and the denial is contested,
21 all persons eighteen years of age or older residing in the home
22 shall, within five business days, submit to the juvenile court or
23 the division of family services two sets of fingerprints in the
24 same manner described in subsection 2 of this section,
25 accompanying fees, and written permission authorizing the

1 juvenile court or the division of family services to forward the
2 fingerprints to the state criminal record repository for
3 submission to the Federal Bureau of Investigation. One set of
4 fingerprints shall be used by the highway patrol to search the
5 criminal history repository and the second set shall be forwarded
6 to the Federal Bureau of Investigation for searching the federal
7 criminal history files.

8 4. For the purposes of this section, "emergency placement"
9 refers to those limited instances when the juvenile court or
10 division of family services is placing a child in the home of
11 private individuals, including neighbors, friends, or relatives,
12 as a result of a sudden unavailability of the child's primary
13 caretaker.

14 210.487. 1. When conducting investigations of persons for
15 the purpose of foster parent licensing, the division shall:

16 (1) Conduct a search for any adult in the applicant's
17 household for evidence of full orders of protection. The office
18 of state courts administrator shall allow access to the automated
19 court information system by the division. The clerk of each
20 court contacted by the division shall provide the division
21 information within ten days of a request; and

22 (2) Obtain two sets of fingerprints for any adult in the
23 applicant's household in the same manner set forth in subsection
24 2 of section 210.482. One set of fingerprints shall be used by
25 the highway patrol to search the criminal history repository and

1 the second set shall be forwarded to the Federal Bureau of
2 Investigation for searching the federal criminal history files.
3 The highway patrol shall assist the division and provide the
4 criminal fingerprint background information, upon request.

5 2. The division may make arrangements with other executive
6 branch agencies to obtain any investigative background
7 information.

8 3. The division may promulgate rules and regulations that
9 are necessary to implement the provisions of this section. No
10 rule or portion of a rule promulgated pursuant to the authority
11 of this section shall become effective unless it has been
12 promulgated pursuant to chapter 536, RSMo.

13 210.518. 1. The department of social services, the
14 department of mental health, the department of elementary and
15 secondary education and all subdivisions thereof shall develop
16 and implement through interagency agreement a common system of
17 classification for assessing the needs of a child and common
18 terminology to describe the services to be provided to the child.
19 The agreement must establish a standardized form and set of
20 records to be kept for such children which shall include, if
21 applicable to such child, any individualized education plan,
22 diagnostic summary, school history, school records, medical
23 history, court records, placement orders and any criminal
24 history. The agreement shall be adopted and in effect on or
25 before July 1, 1999.

1 2. To facilitate the coordination of services being
2 provided to children, interagency meetings pursuant to subsection
3 1 of this section shall be held monthly to address and review any
4 actions being taken by agency personnel involved in the provision
5 of services to a child. The agencies shall document which staff
6 members attended such meetings. If any services for the child
7 are provided through contracted providers, such providers shall
8 be included in the meetings described in this section.

9 210.565. 1. Whenever a child is placed in a foster home
10 and the court has determined pursuant to subsection 3 of this
11 section that foster home placement with relatives is not contrary
12 to the best interest of the child, the division of family
13 services shall give [preference and first consideration for]
14 foster home placement to relatives of the child. Notwithstanding
15 any rule of the division to the contrary, grandparents who
16 request consideration shall be given preference and first
17 consideration for foster home placement.

18 2. As used in this section, the term "relative" means a
19 person related to another by blood or affinity within the third
20 degree. The status of a grandparent shall not be affected by the
21 death or the dissolution of the marriage of a son or daughter.

22 3. The preference for placement with relatives created by
23 this section shall only apply where the court finds that
24 placement with such relatives is in the best interest of the
25 child considering all circumstances. If the court finds that it

1 is not in the best interest of a child to be placed with
2 relatives, the court shall make specific findings on the record
3 detailing the reasons why the best interests of the child
4 necessitate placement of the child with persons other than
5 relatives.

6 210.903. 1. To protect children, the elderly, and disabled
7 individuals in this state, and to promote family and community
8 safety by providing information concerning family caregivers,
9 there is hereby established within the department of health and
10 senior services a "Family Care Safety Registry and Access Line"
11 which shall be available by January 1, 2001.

12 2. The family care safety registry shall contain
13 information on child-care workers', elder-care workers', and
14 personal-care workers' background and on child-care, elder-care
15 and personal-care providers through:

16 (1) The patrol's criminal record check system pursuant to
17 section 43.540, RSMo, including state and national information,
18 to the extent possible;

19 (2) [Probable cause] Findings of abuse and neglect by a
20 preponderance of the evidence pursuant to sections 210.109 to
21 210.183 and, as of January 1, 2003, financial exploitation of the
22 elderly or disabled, pursuant to section 570.145, RSMo;

23 (3) The division of aging's employee disqualification list
24 pursuant to section 660.315, RSMo;

25 (4) As of January 1, 2003, the department of mental

1 health's employee disqualification registry;

2 (5) Foster parent licensure denials, revocations and
3 involuntary suspensions pursuant to section 210.496;

4 (6) Child-care facility license denials, revocations and
5 suspensions pursuant to sections 210.201 to 210.259; and

6 (7) Residential living facility and nursing home license
7 denials, revocations, suspensions and probationary status
8 pursuant to chapter 198, RSMo.

9 210.909. 1. Upon submission of a completed registration
10 form by a child-care worker, elder-care worker or personal-care
11 attendant, the department shall:

12 (1) Determine if a [probable cause] finding of child abuse
13 or neglect by a preponderance of the evidence involving the
14 applicant has been recorded pursuant to sections 210.109 to
15 210.183 and, as of January 1, 2003, if there is a [probable
16 cause] finding of financial exploitation of the elderly or
17 disabled pursuant to section 570.145, RSMo;

18 (2) Determine if the applicant has been refused licensure
19 or has experienced involuntary licensure suspension or revocation
20 pursuant to section 210.496;

21 (3) Determine if the applicant has been placed on the
22 employee disqualification list pursuant to section 660.315, RSMo;

23 (4) As of January 1, 2003, determine if the applicant is
24 listed on the department of mental health's employee
25 disqualification registry;

1 (5) Determine through a request to the patrol pursuant to
2 section 43.540, RSMo, whether the applicant has any conviction,
3 plea of guilty or nolo contendere, or a suspended execution of
4 sentence to a charge of any offense pursuant to chapters 198,
5 334, 560, 565, 566, 568, 569, 573, 575 and 578, RSMo; and

6 (6) If the background check involves a provider, determine
7 if a facility has been refused licensure or has experienced
8 licensure suspension, revocation or probationary status pursuant
9 to sections 210.201 to 210.259 or chapter 198, RSMo.

10 2. Upon completion of the background check described in
11 subsection 1 of this section, the department shall include
12 information in the registry for each registrant as to whether any
13 convictions, employee disqualification listings, registry
14 listings, [probable cause] findings, pleas of guilty or nolo
15 contendere, or license denial, revocation or suspension have been
16 documented through the records checks authorized pursuant to the
17 provisions of sections 210.900 to 210.936.

18 3. The department shall notify such registrant in writing
19 of the results of the determination recorded on the registry
20 pursuant to this section.

21 210.937. The provisions of sections 210.900 to 210.936
22 shall terminate on January 1, [2004] 2010.

23 211.031. 1. Except as otherwise provided in this chapter,
24 the juvenile court or the family court in circuits that have a
25 family court as provided in sections 487.010 to 487.190, RSMo,

1 shall have exclusive original jurisdiction in proceedings:

2 (1) Involving any child or person seventeen years of age
3 who may be a resident of or found within the county and who is
4 alleged to be in need of care and treatment because:

5 (a) The parents, or other persons legally responsible for
6 the care and support of the child or person seventeen years of
7 age, neglect or refuse to provide proper support, education which
8 is required by law, medical, surgical or other care necessary for
9 his or her well-being; except that reliance by a parent, guardian
10 or custodian upon remedial treatment other than medical or
11 surgical treatment for a child or person seventeen years of age
12 shall not be construed as neglect when the treatment is
13 recognized or permitted pursuant to the laws of this state;

14 (b) The child or person seventeen years of age is otherwise
15 without proper care, custody or support; or

16 (c) The child or person seventeen years of age was living
17 in a room, building or other structure at the time such dwelling
18 was found by a court of competent jurisdiction to be a public
19 nuisance pursuant to section 195.130, RSMo;

20 (d) The child or person seventeen years of age is a child
21 in need of mental health services and the parent, guardian or
22 custodian is unable to afford or access appropriate mental health
23 treatment or care for the child;

24 (2) Involving any child who may be a resident of or found
25 within the county and who is alleged to be in need of care and

1 treatment because:

2 (a) The child while subject to compulsory school attendance
3 is repeatedly and without justification absent from school; or

4 (b) The child disobeys the reasonable and lawful directions
5 of his or her parents or other custodian and is beyond their
6 control; or

7 (c) The child is habitually absent from his or her home
8 without sufficient cause, permission, or justification; or

9 (d) The behavior or associations of the child are otherwise
10 injurious to his or her welfare or to the welfare of others; or

11 (e) The child is charged with an offense not classified as
12 criminal, or with an offense applicable only to children; except
13 that, the juvenile court shall not have jurisdiction over any
14 child fifteen and one-half years of age who is alleged to have
15 violated a state or municipal traffic ordinance or regulation,
16 the violation of which does not constitute a felony, or any child
17 who is alleged to have violated a state or municipal ordinance or
18 regulation prohibiting possession or use of any tobacco product;

19 (3) Involving any child who is alleged to have violated a
20 state law or municipal ordinance, or any person who is alleged to
21 have violated a state law or municipal ordinance prior to
22 attaining the age of seventeen years, in which cases jurisdiction
23 may be taken by the court of the circuit in which the child or
24 person resides or may be found or in which the violation is
25 alleged to have occurred; except that, the juvenile court shall

1 not have jurisdiction over any child fifteen and one-half years
2 of age who is alleged to have violated a state or municipal
3 traffic ordinance or regulation, the violation of which does not
4 constitute a felony, or any child who is alleged to have violated
5 a state or municipal ordinance or regulation prohibiting
6 possession or use of any tobacco product;

7 (4) For the adoption of a person;

8 (5) For the commitment of a child or person seventeen years
9 of age to the guardianship of the department of social services
10 as provided by law.

11 2. Transfer of a matter, proceeding, jurisdiction or
12 supervision for a child or person seventeen years of age who
13 resides in a county of this state shall be made as follows:

14 (1) Prior to the filing of a petition and upon request of
15 any party or at the discretion of the juvenile officer, the
16 matter in the interest of a child or person seventeen years of
17 age may be transferred by the juvenile officer, with the prior
18 consent of the juvenile officer of the receiving court, to the
19 county of the child's residence or the residence of the person
20 seventeen years of age for future action;

21 (2) Upon the motion of any party or on its own motion prior
22 to final disposition on the pending matter, the court in which a
23 proceeding is commenced may transfer the proceeding of a child or
24 person seventeen years of age to the court located in the county
25 of the child's residence or the residence of the person seventeen

1 years of age, or the county in which the offense pursuant to
2 subdivision (3) of subsection 1 of this section is alleged to
3 have occurred for further action;

4 (3) Upon motion of any party or on its own motion, the
5 court in which jurisdiction has been taken pursuant to subsection
6 1 of this section may at any time thereafter transfer
7 jurisdiction of a child or person seventeen years of age to the
8 court located in the county of the child's residence or the
9 residence of the person seventeen years of age for further action
10 with the prior consent of the receiving court;

11 (4) Upon motion of any party or upon its own motion at any
12 time following a judgment of disposition or treatment pursuant to
13 section 211.181, the court having jurisdiction of the cause may
14 place the child or person seventeen years of age under the
15 supervision of another juvenile court within or without the state
16 pursuant to section 210.570, RSMo, with the consent of the
17 receiving court;

18 (5) Upon motion of any child or person seventeen years of
19 age or his or her parent, the court having jurisdiction shall
20 grant a change of judge or a change of venue to the family court
21 or juvenile court of another judicial circuit, or both;

22 (6) Upon the transfer of any matter, proceeding,
23 jurisdiction or supervision of a child or person seventeen years
24 of age, certified copies of all legal and social documents and
25 records pertaining to the case on file with the clerk of the

1 transferring juvenile court shall accompany the transfer.

2 3. In any proceeding involving any child or person
3 seventeen years of age taken into custody in a county other than
4 the county of the child's residence or the residence of a person
5 seventeen years of age, the juvenile court of the county of the
6 child's residence or the residence of a person seventeen years of
7 age shall be notified of such taking into custody within
8 seventy-two hours.

9 211.032. 1. When a child or person seventeen years of age,
10 alleged to be in need of care and treatment pursuant to
11 subdivision (1) of subsection 1 of section 211.031, is taken into
12 custody, the juvenile or family court shall make reasonable
13 efforts to notify the [parties of the right to have a protective
14 custody hearing. Such notification shall be in writing.]
15 biological parents, the foster parents, and the grandparents of
16 the child, the division of family services worker, the child
17 abuse and neglect hotline worker, and the guardian ad litem or
18 court-appointed special advocate for the child of the specific
19 date, time, and place that a status conference will be held by
20 the court. Such status conference shall be an open conference
21 and shall be held within three days of the child being taken into
22 custody, excluding Saturdays, Sundays, and legal holidays. The
23 inability to provide notice to any of the persons listed in this
24 subsection after reasonable efforts have been made or the absence
25 of any such persons at the status conference shall not preclude

1 the court from conducting the status conference as scheduled.
2 The supreme court shall establish procedures for the status
3 conference held pursuant to this subsection which shall include,
4 but not be limited to, the following issues:

5 (1) Whether the child can immediately be returned to the
6 child's home. If a child could be returned to the home if
7 support services are provided, such services shall be ordered;

8 (2) Appointment of a guardian ad litem or court-appointed
9 special advocate for the child;

10 (3) Appointment of legal counsel;

11 (4) Whether paternity has been established or needs to be
12 established;

13 (5) Service of process and the location of any absent
14 parent;

15 (6) Whether reasonable efforts were made by the division
16 prior to the removal or emergency removal of the child;

17 (7) A contrary to welfare finding;

18 (8) Placement of the child and the availability of
19 relatives of the child as the preferred placement;

20 (9) Whether the removal of the child necessitates a
21 placement which will cause a disruption in the school currently
22 attended by such child;

23 (10) Providing for visitation by the child's parents,
24 siblings, or other family members where appropriate;

25 (11) The status of any temporary assistance for needy

1 families benefits, Social Security benefits, or child support
2 that is being received on behalf of the child; and

3 (12) Providing for any necessary evaluations, including
4 medical or psychological evaluations.

5 A protective custody hearing may be requested at a status
6 conference, and if requested, a date for such hearing shall be
7 scheduled pursuant to subsection 2 of this section at the time of
8 the status conference whenever possible.

9 2. Upon request from any party or upon request during a
10 status conference, the court shall hold a protective custody
11 hearing[. Such hearing shall be held within three] within
12 fourteen days of the request for a hearing, excluding Saturdays,
13 Sundays and legal holidays. No continuances shall be granted for
14 such protective custody hearing except upon a written motion for
15 cause filed and signed by the party requesting the continuance
16 and such party's attorney.

17 3. The court shall hold an adjudication hearing sixty days
18 after the child has been taken into custody. The court shall
19 notify the parties in writing of the specific date, time, and
20 place of such hearing. If at such hearing the court determines
21 that sufficient cause exists for the child to remain in the
22 custody of the state, the court shall conduct a dispositional
23 hearing ninety days after the child has been taken into custody
24 and shall conduct review hearings regarding the reunification

1 efforts made by the division every ninety to one hundred twenty
2 days for the first year the child is in the custody of the
3 division. After the first year, review hearings shall be held as
4 necessary, but in no event less than once every six months for as
5 long as the child is in the custody of the division.

6 4. At [the protective custody hearing] all hearings held
7 pursuant to this section the court may receive testimony and
8 other evidence relevant to the necessity of detaining the child
9 out of the custody of the parents, guardian or custodian.

10 5. If the placement of any child in the custody of the
11 division of family services will result in the child attending a
12 school other than the school the child was attending when taken
13 into custody:

14 (1) The child's records from such school shall
15 automatically be forwarded to the transferring school upon
16 notification by the division; or

17 (2) Upon request of the foster family and whenever
18 possible, the child shall be permitted to continue to attend the
19 same school that the child was enrolled in and attending at the
20 time the child was taken into custody by the division. The
21 division, in consultation with the department of elementary and
22 secondary education, shall establish the necessary procedures to
23 implement the provisions of this subdivision.

24 211.059. 1. Any interrogation of or interview with a child
25 taken into custody by a juvenile officer or law enforcement

1 official shall be audiotape or videotape recorded in its
2 entirety, or shall be conducted in the presence of a third party
3 who can testify at any administrative or court proceeding as to
4 what transpired at such interrogation or interview. For purposes
5 of this section, "custody" means any situation in which a child
6 has been deprived of his or her liberty to leave. Any failure to
7 comply with the provisions of this section shall render any and
8 all statements made by the child inadmissible in any future
9 administrative or judicial proceeding. Each of the warnings in
10 subsection 2 of this section shall be given while recording or in
11 the presence of the third party.

12 2. When a child is taken into custody by a juvenile officer
13 or law enforcement official, [with or without a warrant for an
14 offense in violation of the juvenile code or the general law
15 which would place the child under the jurisdiction of the
16 juvenile court pursuant to subdivision (2) or (3) of subsection 1
17 of section 211.031,] the child shall be advised prior to
18 questioning:

19 (1) That he has the right to remain silent; and

20 (2) That any statement he does make to anyone can be and
21 may be used against him; and

22 (3) That he has a right to have a parent, guardian or
23 custodian present during questioning; and

24 (4) That he has a right to consult with an attorney and
25 that one will be appointed and paid for him if he cannot afford

1 one.

2 [2.] 3. If the child indicates in any manner and at any
3 stage of questioning pursuant to this section that he or she does
4 not wish to be questioned further, or that the child wishes to
5 have his or her parent, legal guardian, custodian, or attorney
6 present during questioning, the officer shall cease questioning.

7 211.171. 1. Except as otherwise provided in section
8 211.321, the procedure to be followed at the hearing shall be
9 determined by the juvenile court judge and may be as formal or
10 informal as he or she considers desirable, consistent with
11 constitutional and statutory requirements. The judge may take
12 testimony and inquire into the habits, surroundings, conditions
13 and tendencies of the child and the family to enable the court to
14 render such order or judgment as will best promote the welfare of
15 the child and carry out the objectives of this chapter.

16 2. The hearing may, in the discretion of the court, proceed
17 in the absence of the child and may be adjourned from time to
18 time.

19 3. The current foster parents of a child, or any
20 preadoptive parent or relative currently providing care for the
21 child, shall be provided with notice of, and an opportunity to be
22 heard in, any [permanency or other review] hearing to be held
23 with respect to the child. This subsection shall not be
24 construed to require that any such foster parent, preadoptive
25 parent or relative providing care for a child be made a party to

1 the case solely on the basis of such notice and opportunity to be
2 heard.

3 4. All cases of children shall be heard separately from the
4 trial of cases against adults.

5 5. Stenographic notes or an authorized recording of the
6 hearing shall be required if the court so orders [or], if
7 requested by any party interested in the proceeding, or in
8 accordance with section 211.321.

9 6. The general public shall be excluded and only such
10 persons admitted as have a direct interest in the case or in the
11 work of the court except in cases where the child is accused of
12 conduct which, if committed by an adult, would be considered a
13 class A or B felony; or for conduct which would be considered a
14 class C felony, if the child has previously been formally
15 adjudicated for the commission of two or more unrelated acts
16 which would have been class A, B or C felonies, if committed by
17 an adult.

18 7. The practice and procedure customary in proceedings in
19 equity shall govern all proceedings in the juvenile court; except
20 that, the court shall not grant a continuance in such proceedings
21 absent compelling extenuating circumstances, and in such cases,
22 the court shall make written findings on the record detailing the
23 specific reasons for granting a continuance.

24 8. The court shall allow the victim of any offense to
25 submit a written statement to the court. The court shall allow

1 the victim to appear before the court personally or by counsel
2 for the purpose of making a statement, unless the court finds
3 that the presence of the victim would not serve justice. The
4 statement shall relate solely to the facts of the case and any
5 personal injuries or financial loss incurred by the victim. A
6 member of the immediate family of the victim may appear
7 personally or by counsel to make a statement if the victim has
8 died or is otherwise unable to appear as a result of the offense
9 committed by the child.

10 211.181. 1. When a child or person seventeen years of age
11 is found by the court to come within the applicable provisions of
12 subdivision (1) of subsection 1 of section 211.031, the court
13 shall so decree and make a finding of fact upon which it
14 exercises its jurisdiction over the child or person seventeen
15 years of age, and the court may, by order duly entered, proceed
16 as follows:

17 (1) Place the child or person seventeen years of age under
18 supervision in his own home or in the custody of a relative or
19 other suitable person after the court or a public agency or
20 institution designated by the court conducts an investigation of
21 the home, relative or person and finds such home, relative or
22 person to be suitable and upon such conditions as the court may
23 require;

24 (2) Commit the child or person seventeen years of age to
25 the custody of:

1 (a) A public agency or institution authorized by law to
2 care for children or to place them in family homes; except that,
3 such child or person seventeen years of age may not be committed
4 to the department of social services, division of youth services;

5 (b) Any other institution or agency which is authorized or
6 licensed by law to care for children or to place them in family
7 homes;

8 (c) An association, school or institution willing to
9 receive the child or person seventeen years of age in another
10 state if the approval of the agency in that state which
11 administers the laws relating to importation of children into the
12 state has been secured; or

13 (d) The juvenile officer;

14 (3) Place the child or person seventeen years of age in a
15 family home;

16 (4) Cause the child or person seventeen years of age to be
17 examined and treated by a physician, psychiatrist or psychologist
18 and when the health or condition of the child or person seventeen
19 years of age requires it, cause the child or person seventeen
20 years of age to be placed in a public or private hospital, clinic
21 or institution for treatment and care; except that, nothing
22 contained herein authorizes any form of compulsory medical,
23 surgical, or psychiatric treatment of a child or person seventeen
24 years of age whose parents or guardian in good faith are
25 providing other remedial treatment recognized or permitted under

1 the laws of this state;

2 (5) The court may order, pursuant to subsection 2 of
3 section 211.081, that the child receive the necessary services in
4 the least restrictive appropriate environment including home and
5 community-based services, treatment and support, based on a
6 coordinated, individualized treatment plan. The individualized
7 treatment plan shall be approved by the court and developed by
8 the applicable state agencies responsible for providing or paying
9 for any and all appropriate and necessary services, subject to
10 appropriation, and shall include which agencies are going to pay
11 for and provide such services. Such plan must be submitted to
12 the court within thirty days and the child's family shall
13 actively participate in designing the service plan for the child
14 or person seventeen years of age;

15 (6) The department of social services, in conjunction with
16 the department of mental health, shall apply to the United States
17 Department of Health and Human Services for such federal waivers
18 as required to provide services for such children, including the
19 acquisition of community-based services waivers.

20 2. When a child is found by the court to come within the
21 provisions of subdivision (2) of subsection 1 of section 211.031,
22 the court shall so decree and upon making a finding of fact upon
23 which it exercises its jurisdiction over the child, the court
24 may, by order duly entered, proceed as follows:

25 (1) Place the child under supervision in his own home or in

1 custody of a relative or other suitable person after the court or
2 a public agency or institution designated by the court conducts
3 an investigation of the home, relative or person and finds such
4 home, relative or person to be suitable and upon such conditions
5 as the court may require;

6 (2) Commit the child to the custody of:

7 (a) A public agency or institution authorized by law to
8 care for children or place them in family homes; except that, a
9 child may be committed to the department of social services,
10 division of youth services, only if he is presently under the
11 court's supervision after an adjudication under the provisions of
12 subdivision (2) or (3) of subsection 1 of section 211.031;

13 (b) Any other institution or agency which is authorized or
14 licensed by law to care for children or to place them in family
15 homes;

16 (c) An association, school or institution willing to
17 receive it in another state if the approval of the agency in that
18 state which administers the laws relating to importation of
19 children into the state has been secured; or

20 (d) The juvenile officer;

21 (3) Place the child in a family home;

22 (4) Cause the child to be examined and treated by a
23 physician, psychiatrist or psychologist and when the health or
24 condition of the child requires it, cause the child to be placed
25 in a public or private hospital, clinic or institution for

1 treatment and care; except that, nothing contained herein
2 authorizes any form of compulsory medical, surgical, or
3 psychiatric treatment of a child whose parents or guardian in
4 good faith are providing other remedial treatment recognized or
5 permitted under the laws of this state;

6 (5) Assess an amount of up to ten dollars to be paid by the
7 child to the clerk of the court. Execution of any order entered
8 by the court pursuant to this subsection, including a commitment
9 to any state agency, may be suspended and the child placed on
10 probation subject to such conditions as the court deems
11 reasonable. After a hearing, probation may be revoked and the
12 suspended order executed.

13 3. When a child is found by the court to come within the
14 provisions of subdivision (3) of subsection 1 of section 211.031,
15 the court shall so decree and make a finding of fact upon which
16 it exercises its jurisdiction over the child, and the court may,
17 by order duly entered, proceed as follows:

18 (1) Place the child under supervision in his own home or in
19 custody of a relative or other suitable person after the court or
20 a public agency or institution designated by the court conducts
21 an investigation of the home, relative or person and finds such
22 home, relative or person to be suitable and upon such conditions
23 as the court may require;

24 (2) Commit the child to the custody of:

25 (a) A public agency or institution authorized by law to

1 care for children or to place them in family homes;

2 (b) Any other institution or agency which is authorized or
3 licensed by law to care for children or to place them in family
4 homes;

5 (c) An association, school or institution willing to
6 receive it in another state if the approval of the agency in that
7 state which administers the laws relating to importation of
8 children into the state has been secured; or

9 (d) The juvenile officer;

10 (3) Beginning January 1, 1996, the court may make further
11 directions as to placement with the division of youth services
12 concerning the child's length of stay. The length of stay order
13 may set forth a minimum review date;

14 (4) Place the child in a family home;

15 (5) Cause the child to be examined and treated by a
16 physician, psychiatrist or psychologist and when the health or
17 condition of the child requires it, cause the child to be placed
18 in a public or private hospital, clinic or institution for
19 treatment and care; except that, nothing contained herein
20 authorizes any form of compulsory medical, surgical, or
21 psychiatric treatment of a child whose parents or guardian in
22 good faith are providing other remedial treatment recognized or
23 permitted under the laws of this state;

24 (6) Suspend or revoke a state or local license or authority
25 of a child to operate a motor vehicle;

1 (7) Order the child to make restitution or reparation for
2 the damage or loss caused by his offense. In determining the
3 amount or extent of the damage, the court may order the juvenile
4 officer to prepare a report and may receive other evidence
5 necessary for such determination. The child and his attorney
6 shall have access to any reports which may be prepared, and shall
7 have the right to present evidence at any hearing held to
8 ascertain the amount of damages. Any restitution or reparation
9 ordered shall be reasonable in view of the child's ability to
10 make payment or to perform the reparation. The court may require
11 the clerk of the circuit court to act as receiving and disbursing
12 agent for any payment ordered;

13 (8) Order the child to a term of community service under
14 the supervision of the court or of an organization selected by
15 the court. Every person, organization, and agency, and each
16 employee thereof, charged with the supervision of a child under
17 this subdivision, or who benefits from any services performed as
18 a result of an order issued under this subdivision, shall be
19 immune from any suit by the child ordered to perform services
20 under this subdivision, or any person deriving a cause of action
21 from such child, if such cause of action arises from the
22 supervision of the child's performance of services under this
23 subdivision and if such cause of action does not arise from an
24 intentional tort. A child ordered to perform services under this
25 subdivision shall not be deemed an employee within the meaning of

1 the provisions of chapter 287, RSMo, nor shall the services of
2 such child be deemed employment within the meaning of the
3 provisions of chapter 288, RSMo. Execution of any order entered
4 by the court, including a commitment to any state agency, may be
5 suspended and the child placed on probation subject to such
6 conditions as the court deems reasonable. After a hearing,
7 probation may be revoked and the suspended order executed;

8 (9) When a child has been adjudicated to have violated a
9 municipal ordinance or to have committed an act that would be a
10 misdemeanor if committed by an adult, assess an amount of up to
11 twenty-five dollars to be paid by the child to the clerk of the
12 court; when a child has been adjudicated to have committed an act
13 that would be a felony if committed by an adult, assess an amount
14 of up to fifty dollars to be paid by the child to the clerk of
15 the court.

16 4. Beginning January 1, 1996, the court may set forth in
17 the order of commitment the minimum period during which the child
18 shall remain in the custody of the division of youth services.
19 No court order shall require a child to remain in the custody of
20 the division of youth services for a period which exceeds the
21 child's eighteenth birth date except upon petition filed by the
22 division of youth services pursuant to subsection 1 of section
23 219.021, RSMo. In any order of commitment of a child to the
24 custody of the division of youth services, the division shall
25 determine the appropriate program or placement pursuant to

1 subsection 3 of section 219.021, RSMo. Beginning January 1,
2 1996, the department shall not discharge a child from the custody
3 of the division of youth services before the child completes the
4 length of stay determined by the court in the commitment order
5 unless the committing court orders otherwise. The director of
6 the division of youth services may at any time petition the court
7 for a review of a child's length of stay commitment order, and
8 the court may, upon a showing of good cause, order the early
9 discharge of the child from the custody of the division of youth
10 services. The division may discharge the child from the division
11 of youth services without a further court order after the child
12 completes the length of stay determined by the court or may
13 retain the child for any period after the completion of the
14 length of stay in accordance with the law.

15 5. When an assessment has been imposed under the provisions
16 of subsection 2 or 3 of this section, the assessment shall be
17 paid to the clerk of the court in the circuit where the
18 assessment is imposed by court order, to be deposited in a fund
19 established for the sole purpose of payment of judgments entered
20 against children in accordance with section 211.185.

21 211.321. 1. Juvenile court proceedings conducted pursuant
22 to subdivision (1) of subsection 1 of section 211.031 and for
23 termination of parental rights cases pursuant to sections 211.442
24 to 211.487, except for adoption cases, shall be open to the
25 public. The court, on its own motion, may close the proceedings

1 to the public to protect the welfare and best interests of the
2 child and for exceptional circumstances. Any victim or any party
3 to a juvenile court proceeding referred to in this subsection,
4 except the state, may file a verified motion requesting that the
5 general public be excluded from the proceeding or any portion of
6 the proceeding. Upon the filing of such verified motion, the
7 court shall hear arguments by the parties, but no evidence, and
8 shall make a determination whether to exclude the general public
9 from the proceedings or any portion of the proceedings. The
10 court shall make a finding on the record when a motion to close a
11 hearing or records pursuant to this section is made and heard by
12 the court.

13 2. Notwithstanding the provisions of subsection 1 of this
14 section, the general public shall be excluded from all juvenile
15 court proceedings referred to in subsection 1 of this section
16 during the testimony of any child or victim and only such persons
17 who have a direct interest in the case or in the work of the
18 court will be admitted to the proceedings.

19 3. All records shall be closed until the seventy-two hour
20 status conference is held pursuant to section 211.032 and shall
21 be open thereafter unless specifically closed by the court
22 pursuant to this section.

23 4. As appropriate, a record of the juvenile court hearings
24 described in subsection 1 of this section shall be made and
25 preserved by stenographic recording or by mechanical or

1 electronic recording as provided by law or court rule.

2 5. Pleadings and orders of the juvenile court other than
3 confidential files and those specifically ordered closed by the
4 juvenile court judge shall be open to the general public. For
5 purposes of this section, "confidential file" means all other
6 records and reports considered closed or confidential by law,
7 including but not limited to medical reports, psychological or
8 psychiatric evaluations, investigation reports of the division of
9 family services, social histories, and home studies. Only
10 persons who are found by the court to have a legitimate interest
11 shall be allowed access to confidential or closed files. In
12 determining whether a person has a legitimate interest, the court
13 shall consider the nature of the proceedings, the welfare and
14 safety of the public, and the interest of the minor. Any parent
15 or party may waive confidentiality for himself or herself, but
16 only the court may waive confidentiality for a minor child.

17 6. For records made available to the public pursuant to
18 this section, the identity of the victim shall not be disclosed
19 and all references in such records to the identity of the victim
20 shall be redacted prior to disclosure to the public.

21 7. The provisions of this section shall apply to juvenile
22 court proceedings specified in this section which are initiated
23 on or after August 28, 2003.

24 453.110. 1. No person, agency, organization or institution
25 shall surrender custody of a minor child, or transfer the custody

1 of such a child to another, and no person, agency, organization
2 or institution shall take possession or charge of a minor child
3 so transferred, without first having filed a petition before the
4 circuit court sitting as a juvenile court of the county where the
5 child may be, praying that such surrender or transfer may be
6 made, and having obtained such an order from such court approving
7 or ordering transfer of custody.

8 2. If any such surrender or transfer is made without first
9 obtaining such an order, such court shall, on petition of any
10 public official or interested person, agency, organization or
11 institution, order an investigation and report as described in
12 section 453.070 to be completed by the division of family
13 services and shall make such order as to the custody of such
14 child in the best interest of such child.

15 3. Any person violating the terms of this section shall be
16 guilty of a class D felony.

17 4. The investigation required by subsection 2 of this
18 section shall be initiated by the division of family services
19 within forty-eight hours of the filing of the court order
20 requesting the investigation and report and shall be completed
21 within thirty days. The court shall order the person having
22 custody in violation of the provisions of this section to pay the
23 costs of the investigation and report.

24 5. This section shall not be construed to prohibit any
25 parent, agency, organization or institution from placing a child

1 in a [family home for care] temporary placement, including but
2 not limited to a family home; church; athletic, academic, or
3 charitable camp; babysitting, military academy; child care
4 facility; foster home; or residential care facility, if the right
5 to supervise the care of the child and to resume custody thereof
6 is retained, or from placing a child with a licensed foster home
7 within the state through a child placing agency licensed by this
8 state as part of a preadoption placement.

9 6. After the filing of a petition for the transfer of
10 custody for the purpose of adoption, the court may enter an order
11 of transfer of custody if the court finds all of the following:

12 (1) A family assessment has been made as required in
13 section 453.070 and has been reviewed by the court;

14 (2) A recommendation has been made by the guardian ad
15 litem;

16 (3) A petition for transfer of custody for adoption has
17 been properly filed or an order terminating parental rights has
18 been properly filed;

19 (4) The financial affidavit has been filed as required
20 under section 453.075;

21 (5) The written report regarding the child who is the
22 subject of the petition containing the information has been
23 submitted as required by section 453.026;

24 (6) Compliance with the Indian Child Welfare Act, if
25 applicable; and

1 (7) Compliance with the Interstate Compact on the Placement
2 of Children pursuant to section 210.620, RSMo.

3 7. A hearing on the transfer of custody for the purpose of
4 adoption is not required if:

5 (1) The conditions set forth in subsection 6 of this
6 section are met;

7 (2) The parties agree and the court grants leave; and

8 (3) Parental rights have been terminated pursuant to
9 section 211.444 or 211.447, RSMo.

10 475.024. A parent of a minor, by a properly executed power
11 of attorney, may delegate to another individual, child care
12 facility, foster home, residential care facility, or child
13 placing agency, whether licensed or exempt from licensure
14 pursuant to section 210.211 or 210.516, RSMo, for a period not
15 exceeding one year, any of his powers regarding care or custody
16 of the minor child, except his power to consent to marriage or
17 adoption of the minor child.

18 491.075. 1. A statement made by a child under the age of
19 [twelve] fourteen relating to an offense under chapter 565, 566
20 or 568, RSMo, performed with or on a child by another, not
21 otherwise admissible by statute or court rule, is admissible in
22 evidence in criminal proceedings in the courts of this state as
23 substantive evidence to prove the truth of the matter asserted
24 if:

25 (1) The court finds, in a hearing conducted outside the

1 presence of the jury that the time, content and circumstances of
2 the statement provide sufficient indicia of reliability; and

3 (2) (a) The child testifies at the proceedings; or

4 (b) The child is unavailable as a witness; or

5 (c) The child is otherwise physically available as a
6 witness but the court finds that the significant emotional or
7 psychological trauma which would result from testifying in the
8 personal presence of the defendant makes the child unavailable as
9 a witness at the time of the criminal proceeding.

10 2. Notwithstanding subsection 1 of this section or any
11 provision of law or rule of evidence requiring corroboration of
12 statements, admissions or confessions of the defendant, and
13 notwithstanding any prohibition of hearsay evidence, a statement
14 by a child when under the age of [twelve] fourteen who is alleged
15 to be victim of an offense under chapter 565, 566 or 568, RSMo,
16 is sufficient corroboration of a statement, admission or
17 confession regardless of whether or not the child is available to
18 testify regarding the offense.

19 3. A statement may not be admitted under this section
20 unless the prosecuting attorney makes known to the accused or
21 [his] the accused's counsel his or her intention to offer the
22 statement and the particulars of the statement sufficiently in
23 advance of the proceedings to provide the accused or [his] the
24 accused's counsel with a fair opportunity to prepare to meet the
25 statement.

1 4. Nothing in this section shall be construed to limit the
2 admissibility of statements, admissions or confessions otherwise
3 admissible by law.

4 492.304. 1. In addition to the admissibility of a
5 statement under the provisions of section 492.303, the visual and
6 aural recording of a verbal or nonverbal statement of a child
7 when under the age of [twelve] fourteen who is alleged to be a
8 victim of an offense under the provisions of chapter 565, 566 or
9 568, RSMo, is admissible into evidence if:

10 (1) No attorney for either party was present when the
11 statement was made; except that, for any statement taken at a
12 state-funded child assessment center as provided for in
13 subsection 2 of section 210.001, RSMo, an attorney representing
14 the state of Missouri in a criminal investigation may, as a
15 member of a multidisciplinary investigation team, observe the
16 taking of such statement, but such attorney shall not be present
17 in the room where the interview is being conducted;

18 (2) The recording is both visual and aural and is recorded
19 on film or videotape or by other electronic means;

20 (3) The recording equipment was capable of making an
21 accurate recording, the operator of the equipment was competent,
22 and the recording is accurate and has not been altered;

23 (4) The statement was not made in response to questioning
24 calculated to lead the child to make a particular statement or to